



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes**

MNSD, FF

### **Introduction**

This hearing was convened in response to an application by the tenant for a monetary order for the return of the security deposit and compensation under section 38. The application is inclusive of an application for recovery of the filing fee for the cost of this application.

The landlord did not attend although served by hand on August 10, 2010.

### **Background and Evidence**

At the outset of the hearing the applicant testified that he rented a residential house from the owner for the purpose of operating a tire business out of the house and did not intend to reside in the house. The applicant did not enter into a tenancy agreement. The City informed the applicant that he could not operate a business in the house and the applicant asked the owner for the return of his security deposit – to no avail.

### **Analysis**

Section 4 of the Residential Tenancy Act states, *in part*, as follows **(emphasis for ease)**  
**What this Act does not apply to**

**4** This Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- (d) living accommodation included with premises that**

- (i) are primarily occupied for business purposes, and
- (ii) are rented under a single agreement,

As a result, I find that the Residential Tenancy Act does not apply to this residential property and that **I must decline jurisdiction.**

### **Conclusion**

I do not have jurisdiction to hear this application.

The application for a monetary order for return of the security deposit is **dismissed.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

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