



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, and a monetary order for unpaid rent.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The landlord has stated that the tenant is no longer in the rental unit and an order of possession is not required.

### Preliminary issue

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with this application.

The parties entered into an agreement, and the respondent was to pay \$600.00 per month, on the first day of each month. The agreement was the respondent was renting two rooms from the applicant and they shared the kitchen and bathroom facilities. The respondent did not pay a security deposit.

The parties agree that the applicant has a tenancy agreement with the landlord or owner of the rental unit.

The applicant stated that she rents rooms to pay the rent to the landlord.

The parties agree the respondent did not enter into a new tenancy agreement with the landlord and was not added as a co-tenant.

Under the Act landlord is defined as follows:

**“Landlord”**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a respondent under a tenancy agreement or this Act in relation to the rental unit;

In this case, the applicant is not the owner of the rental unit and was not acting on behalf of the owner or exercising powers on behalf of the owner, the applicant is not the heirs, assigns, personal representatives and successors in title to the owner of the rental unit and the applicant is not a person, other than a tenant occupying the rental unit. Therefore, I find the applicant is a tenant and not a landlord as defined by the Act.

Section 13 of the Residential Tenancy Policy Guidelines states:

Where a tenant allows a person who is not a tenant to move into the premises and share rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

The evidence in this case was the applicant allowed another person to move into the premises to help pay the rent. The parties agree they never entered into a new tenancy agreement with the owner of the rental unit to have the respondent added as a co-tenant.

Therefore, I find the respondent is an occupant as defined under the guideline and not a tenant.

As this is a dispute between a tenant and an occupant and not a dispute between a landlord and tenant. I find that there is no jurisdiction for the applicant to proceed with their application and I dismiss her application without leave to re-apply.

Conclusion

I order that the application is dismissed without leave to re-apply due to the lack of jurisdiction under the Act.

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*.

Dated: February 27, 2012.

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Residential Tenancy Branch