



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC and MNSD

### Introduction

This application was brought by the tenant seeking a monetary award for loss of personal belongs claimed to have been disposed of by the landlord after he was arrested for possession of a stolen vehicle. The tenant also seeks return of a security deposit.

At the commencement of the hearing, the landlord challenged the jurisdiction of the Residential Tenancy Branch to hear this matter on the grounds that the accommodation agreement had been made under the *Hotel Keepers Act*.

The tenant moved in on November 4, 2011 and vacated on or about December 4, 2011 when he was taken into police custody. Rent was \$550 for the month and the landlord holds a security deposit of \$275.

In support of his position that there is no tenancy, the landlord stated that the accommodation agreement expressly states that the it operates under the Hotel Act (*Hotel Keepers Act*) and not the Landlord and Tenant Act (*Residential Tenancy Act*) and provides for a one-month stay, renewable only at the pleasure of management. The landlord said that, as a matter of practice, if a stay lasts longer than three months, it is treated as a tenancy agreement. For that reason, he said the resort has not made application under the *Residential Tenancy Act* for claimed damages.

The landlord stated that after the tenant had been taken into custody, police advised him that it was unlikely the tenant would be returning. He further stated that a number of the items claimed by the tenant in his application were seized by police officers and remain in their custody.

This agreement for accommodation has characteristics of both a residential tenancy and hotel accommodation. The facility primarily targets travelling or vacation guests and the written agreement favours that use. On the other hand, the security deposit and the fact that the tenant stated he had no other permanent address and the lack of a hotel tax being applied tends to define it as a residential tenancy.

The tenant has submitted only a list of 46 items and his estimated, rounded numbers, of their values and no other corroborating or documentary evidence. Some food items were discarded by the landlord, some have been returned to the tenant, and some remain in police custody.

Given the question of jurisdiction, the unsupported and challenged list submitted by the tenant and the allegation that some of the items may be stolen goods, I am declining jurisdiction in this matter and would refer the parties to the Provincial Court of British Columbia, Small Claim Division as a more appropriate venue for this dispute.

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: March 12, 2012.

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Residential Tenancy Branch