



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction and Preliminary Issue

This hearing dealt with the landlords/applicants' (hereafter referred to as applicants) application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order of possession for the rental unit, for a monetary order for money owed or compensation for damage or loss and unpaid rent and for recovery of the filing fee.

The hearing began with the applicant and his agent; the tenant/respondent (hereafter referred to as respondent) was not present.

The applicant was asked about his evidence as none was placed in the file.

The applicant respondent replied that he had submitted a copy of a Notice to End Tenancy, but did not have the Notice in front of him.

Due to the information contained in the applicants' application, at the outset of the hearing the issue of jurisdiction under the Residential Tenancy Act was explored as to the determination of whether or not the applicants and respondent had entered into a residential tenancy agreement.

### Issue(s) to be Decided

1. Does the *Residential Tenancy Act* apply to this dispute and do I have jurisdiction to resolve this dispute?
2. Has the applicant established an entitlement to an order of possession and a monetary order?

### Background and Evidence

The applicant and his agent explained that there was no tenancy agreement, that the respondent was never a tenant and had never paid rent. The circumstances were that the respondent moved into the rental unit when a former tenant resided in the rental unit, unbeknownst to the applicants, and did not leave when that tenant moved out.

The applicant and his agent submitted that they believed the tenant was a squatter, but that the police would not assist in removing the respondent until the issue had been before the Residential Tenancy Branch ("RTB").

The applicant stated that they believe the respondent had vacated the rental unit, but had left some of his belongings.

### Analysis

In order for the applicant to succeed in this application, the applicant must show that the *Residential Tenancy Act* applies. In order to find the Act applies, I must be satisfied that the parties entered into a tenancy and that the parties had a landlord and tenant relationship.

I accept the testimony of the applicant and his agent that the respondent was never a tenant and that the parties had not entered into a landlord/tenant relationship.

In light of the above, I decline to find jurisdiction to resolve this dispute. The landlord is at liberty to seek the appropriate legal remedy to this dispute.

### Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined jurisdiction.

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: May 11, 2012.

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Residential Tenancy Branch