



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

MNR, MND

### Introduction

This hearing dealt with an application by the landlord/applicant (“applicant”) seeking compensation related to non-payment of rent and damage to the rental unit by the tenant/respondent (“applicant”). Both parties and the owner of the residential property were present at the hearing, gave affirmed testimony, and were allowed to make submissions during the hearing.

### *Preliminary Issues:*

An issue arose during the hearing, which was whether the applicant in this proceeding has the authority to start and proceed with this application. For the following reasons I find that she did not.

The applicant presents herself as the landlord; however, she is actually a tenant in the same property. The applicant did not provide any documentation to demonstrate that she has the authority to act on behalf of the landlord/owner and to represent his interests.

The tenant has issued rent money to go to the owner, although it was collected by the applicant.

On another preliminary matter, the parties were cautioned at the beginning of the hearing that they were not to interrupt the other party during testimony; however, the applicant continuously interrupted the proceeding. The applicant was again cautioned during the course of the hearing, particularly when she repeatedly attempted to bring forth personal issues, not related to her claim.

I then placed the applicant in mute mode after she began arguing with me, where she remained during the rest of the hearing.

## Analysis

The *Act* defines a landlord 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 landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

I accept the evidence before me that the applicant is a tenant of the owner/landlord ("landlord") and that she supplements her obligation to pay rent and utilities to the landlord by having a roommate. The applicant collected rent cheques which were put in the name of the landlord. The applicant collected the apportioned rent from her roommate and then paid rent to the landlord.

From the evidence presented in the hearing, I accept that no tenancy agreement ever existed or was contemplated between the "roommate" and the landlord. As a result the applicant's roommate is considered an "Occupant" as defined in the *Residential Tenancy Policy Guideline Manual*, section 13: Rights and Responsibilities of Co-Tenants:

### **Occupants**

Where a tenant allows a person who is not a tenant to move into the premises and share the 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.

In addition, I find that the applicant cannot meet the definition of a landlord as defined by the *Act*. The applicant has not provided any evidence that she has the authority to act on behalf of the owner or as the agent and is excluded by subsection (c) of the definition

of “landlord” in the Act as she occupies the rental unit. On this basis I find that the legislation has contemplated this type of circumstance and in the absence of clear evidence of a joint tenancy, the *Act* does not apply.

Therefore, I find this dispute as between tenants and their roommates does not fall within the jurisdiction of the Act.

### Conclusion

The application is dismissed without leave to re-apply as the application lacks 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: June 06, 2012.

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Residential Tenancy Branch