



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC MNR MNDC FF

### Introduction

This hearing dealt with an application for an order of possession and monetary compensation for unpaid rent and utilities. The applicant participated in the teleconference hearing, but the respondent did not.

The applicant stated that on August 1, 2013 she personally served the respondent with the application for dispute resolution and notice of the hearing. I accepted the applicant's evidence regarding service and proceeded with the hearing in the absence of the respondent.

### Preliminary Issue – Jurisdiction

The applicant identified herself as the landlord in this matter. In fact, the applicant is herself a tenant at the dispute address. The applicant stated that her landlord gave her verbal consent to sublet the basement. The applicant stated that she sublet the basement to other tenants, and collected their share of the rent to forward to the landlord each month. The applicant, the respondent and the landlord did not enter into a tenancy agreement to include the respondent as a tenant.

The *Residential Tenancy 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.

Residential Tenancy Policy Guideline 13 states that 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.

The applicant in this matter does not meet the definition of a landlord, as she is not the agent of the landlord, and he does not have the authority to exercise all of the powers or perform the duties of a landlord under the Act. The respondent was not a tenant of the applicant; rather, he was another occupant, or a roommate.

Based on the above facts, I find I do not have jurisdiction to hear this application.

### Conclusion

I decline jurisdiction to hear this matter.

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: September 10, 2013

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Residential Tenancy Branch

