



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on March 26, 2014, by the Applicant to obtain a Monetary Order for unpaid rent or utilities, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

The Applicant did not appear at the scheduled teleconference hearing, however the Respondent appeared.

### Issue(s) to be Decided

Does this matter fall within the jurisdiction of the *Residential Tenancy Act*?

### Background and Evidence

At the outset of this proceeding the Respondent stated that she had rented a bedroom in the basement of a house that the Applicant was renting. She had a separate bathroom and living room but she shared the kitchen with the Applicant.

Upon review of the tenancy agreement submitted into evidence by the Applicant, I noted that the agreement indicated the Applicant was referred as "Landlord/Lessor/Agent". The Respondent replied that the Applicant was not the owner of the property and the Applicant rented the property from a real estate property management company.

### Analysis

The *Residential Tenancy Act* applies to tenancy agreements, rental units and residential property. These terms are all defined by the Act. A tenancy agreement is an agreement between a landlord and tenant respecting possession of a rental unit and use of common areas. In order to find a tenancy is in place I must be satisfied that the parties meet the definition of landlord and tenant.

Section 1 of the Act defines a landlord, in relation to a rental unit, to include 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 [emphasis added]

(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;

Section 4(c) of the Act provides that the *Residential Tenancy Act* does not apply to a living accommodation, in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

In this case there is conflicting evidence. The Respondent claimed the Applicant was a tenant with whom she shared the kitchen with.

Based on the above, I find this matter does not fall within the jurisdiction of the *Residential Tenancy Act*. I make this finding in part because if the Applicant was a tenant herself, then the Respondent would be considered an occupant, and the *Residential Tenancy Act* would not apply. If the Applicant was the owner then the *Residential Tenancy Act* would not apply, pursuant to section 4(c) of the Act. Accordingly, this application is dismissed, for want of jurisdiction.

### Conclusion

I HEREBY DISMISS the matters pertaining to this application, for want of 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: July 17, 2014

---

Residential Tenancy Branch