



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, MNR, MNDC, MNSD, RPP, RR, FF

### Introduction

This hearing dealt with two related applications. One was the landlord's application for an order ending the tenancy. The other was an application by the landlords for a monetary order, including return of the security deposit and compensation for repairs made by the tenants, and an order for return of personal property. Both parties appeared and had an opportunity to be heard. As the parties and circumstances are the same on both applications one decision will be rendered for both.

The parties advised that the tenants had moved out and had removed all of their personal possession. Accordingly, the applications to end the tenancy and to order the return of personal property to the tenants were no longer relevant.

I heard the evidence from all the parties. It was only towards the end of the hearing that I was advised that the home is located on an Indian Reserve and that the landlord is a member of that band.

I advised the parties that I would be first deciding the issue of whether the Residential Tenancy Branch had jurisdiction over this dispute. If I found that it did I would then decide the tenants' application. If I found that I did not have jurisdiction the parties would have to take their dispute to the proper forum.

### Preliminary Issue(s) to be Decided

Does the Residential Tenancy Branch have jurisdiction over this dispute?

### Analysis

The applicable law is summarized in *Residential Tenancy Policy Guideline 27*:

*Jurisdiction* as follows:

Historically, the Residential Tenancy Branch accepted jurisdiction of disputes over monetary claims, but not disputes affecting the use and occupation of Indian Lands. However, a decision issued

June 5, 2013 by the British Columbia Court of Appeal found that the entire *Manufactured Home Park Tenancy Act* is constitutionally inapplicable to Sechelt lands. This decision, *Sechelt Indian Band v. British Columbia (Manufactured Home Park Tenancy Act, Dispute Resolution Officer)*, 2013 BCCA 262, has broad implications – it is not limited to the Sechelt Indian Band. The decision means that both the *Manufactured Home Park Tenancy Act* and the *Residential Tenancy Act* are wholly inapplicable to tenancy agreements on reserve lands and property on reserve lands, where the landlord is an Indian or an Indian Band. Thus, the Residential Tenancy Branch has no jurisdiction to hear disputes of any nature arising from these tenancy agreements.

As the rental unit is located on an Indian reserve and the landlord is a member of that Indian band The Residential Tenancy Branch does not have jurisdiction over this dispute.

#### Conclusion

The Residential Tenancy Branch does not have jurisdiction over 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: November 06, 2014

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Residential Tenancy Branch

