



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD FF

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on October 28, 2014 by the Applicant seeking a monetary order for the return of a security deposit and recovery of the filing fee.

The teleconference hearing was attended by the named Applicant and Respondent.

### 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 provided affirmed testimony that he is the registered owner of the subject property and that this matter does not fall within the *Residential Tenancy Act* because it was a roommate situation. The Respondent submitted that he and his wife had full access to and shared the kitchen and bathroom facilities with the Applicant. Their agreement was that throughout the year when they would entertain guests, they could access the upper kitchen and main floor washroom.

The Applicant described the subject property as being a three level house where the Respondent and his wife had a bedroom and bathroom on the lower level. The main or middle level had a kitchen and dining room that was primarily used by the owners and three bedrooms that were occupied by renters. The renters all had access to the bathroom on the middle or main level and shared the kitchen facilities that were on the upper third level. He noted that there were problems with a microwave on the upper level and they were granted access to the other microwave.

Upon further clarification the Applicant confirmed that there were no separate fully self-contained private suites in the house. He also confirmed that there were times when the Respondent would have guests on the main level and the guests or the Respondent could access and use the main level washroom if they needed.

Analysis

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

Based on the aforementioned, and in consideration of the evidence before me, I declined to hear these matters for want of jurisdiction. I further decline to award recovery of the filing fee.

Conclusion

I hereby dismiss 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: December 16, 2014

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Residential Tenancy Branch

