



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant for a monetary order for money owed or compensation for damage or loss under the Act, and for return of the double the security deposit.

Both parties appeared.

### Preliminary issue

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with the application.

The respondent BB writes in a letter submitted on April 10, 2015, which reads in part,

“Her claim that she was a “tenant” in our home is incorrect. [name] came to live with us after having lived on her own at age of 15. ... the relationship was never one of tenant and landlord as she claims.”

[Reproduced as written]

The respondent BB submitted a copy of the tenancy agreement, which indicates BB is the tenant and SS is the landlord. The tenancy began on November 15, 2011 and the tenant paid a security deposit of \$1,250.00 and pet damage deposit of \$1,250.00. The applicant SM is not a party to the tenancy agreement.

The applicant submitted that they lived in the rental unit with BB and rented a bedroom from BB. The applicant acknowledged that the respondent BB is the tenant of the rental unit and the respondent SS is the owner the premises.

The applicant writes in a letter submitted on April 7, 2015, which reads in part,

“I moved into the residence of [address removed] on November 1, 2011. ... I had one pet and paid a pet deposit in the amount of \$1250.00 to the owner. My pet ran away from the home in October 2013. My co-resident got another pet and secured it using my pet deposit.”

[Reproduced as written]

.Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find 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 respondent under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

[My emphasis added]

Section 13 of the Residential Tenancy Policy Guidelines states:

Where a tenant allows a person who is not a tenant to move into the premises and share 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 this case, the respondent BB entered into a written tenancy agreement with respondent SS, which was signed on October 18, 2011. Although SM resided with BB they were not co-tenants under the agreement, this leads me to find that SM is an occupant, BB is the tenant, and SS is the landlord.

Under the terms of BB's tenancy agreement a pet damage deposit was required to be paid by November 15, 2011. On October 30, 2011, SM issued a cheque to the owner of the premises to pay the pet damage deposit.

Although I accept the documentary evidence that the applicant/occupant paid the pet damage deposit, I find that the deposit was accepted on behalf of the tenant and formed part of the tenancy agreement between the landlord and tenant.

Although the documentary evidence indicated that SM vacated the premise on or about August 14, 2014, the tenancy between the tenant and landlord continued. I find the pet

damage deposit remains with the tenancy and the landlord is required to comply with section 38 of the Act at the end of the tenancy.

Further, I find the occupant had no legal right under the Act for the return of the deposit from the landlord, as they are not a party to the tenancy agreement, regardless if they paid the deposit.

I find any dispute over the pet damage deposit is between the tenant and the occupant. I find there is no jurisdiction under the Act that authorizes me to hear disputes between a tenant and an occupant. Therefore, I dismiss the application without leave to reapply for lack of jurisdiction.

### Conclusion

The applicant's application is dismissed for lack 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: April 29, 2015

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Residential Tenancy Branch

