



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

**OPR, MND, MNR, MNSD, MNDC, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent,, compensation for damage to the rental unit, compensation for damage of loss under the Act, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that he personally served the tenant with the hearing documents on April 6, 2015, at the rental unit., on the front porch. Service took place with a witness present at approximately 6:20 p.m.

These documents are deemed to have been personally served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

### **Preliminary Matters**

The landlord confirmed that a recent application (see cover of this decision for the file number) resulted in an Order of possession and a monetary for unpaid rent to April, 2015. The decision was issued via an ex parte process, not a participatory hearing.

### **Jurisdiction**

The landlord/applicant supplied a copy of a Residential Tenancy Branch (RTB) standard tenancy agreement and an addendum. The tenancy agreement identifies the owners of the property and lists the applicant on this file as the landlord. The addendum sets out terms that declare the agreement is for a roommate arrangement, with limited use of the kitchen that is on the upper floor of the home. The addendum states the rental is living space only, is not a suite and that the agreement is between the two parties and not the owners.

The applicant confirmed that the owners do not ask him to rent out rooms on their behalf and confirmed he is not acting as their agent. The applicant rents out rooms to subsidize the \$2,500.00 monthly rent he owes to the owners of the property.

The applicant used to bring in roommates with the owners as participants but the owners no longer wished to continue with that arrangement. The applicant confirmed that he alone is responsible for payment of the rent and that if he were to fail to pay the rent only he would be named on a Notice to end tenancy issued by the owners of the property.

The Act defines landlord as:

**"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

From the evidence before me, despite the finding made as a result of the applicant's previous application, I find that the applicant does not meet the definition of landlord. He is not an agent of the landlord; he is a tenant who rents out rooms.

Therefore, I find that the respondent is an occupant. Residential Tenancy Branch policy defines an occupant as:

*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.*

Therefore, as the applicant does not meet the definition of landlord and the respondent is an occupant I decline jurisdiction.

I cannot alter a previous decision issued. The previous decision did not consider jurisdiction.

Conclusion

Jurisdiction is declined.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 15, 2015

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Residential Tenancy Branch

