



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by both landlords

The landlords testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on July 13, 2015 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

Based on the testimony of the landlords, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlords testified that the tenant rents a room from the landlords. The landlords stated that while they primarily live outside of the province they maintain the residence where the tenant rents the room. They testified that when they stay at the dispute address they share the kitchen and bathroom facilities of the rental unit with the tenant.

Section 4 of the *Act* states that the *Act* does not apply to:

- a) Living accommodation rented by a not for profit housing cooperative to a member of the cooperative;
- b) Living accommodation owned or operated by an educational institution and provided by that institution to its students or employees;
- c) Living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation;
- d) Living accommodation occupied included with premises that
  - i. Are primarily occupied for business purposes, and
  - ii. Are rented under a single agreement;
- e) Living accommodation occupied as vacation or travel accommodation;
- f) Living accommodation provided for emergency shelter or transitional housing;

- g) Living accommodation
  - i. In a community care facility under the *Community Care and Assisted Living Act*,
  - ii. In a continuing care facility under the *Continuing Care Act*,
  - iii. In a public or private hospital under the *Hospital Act*,
  - iv. If designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,
  - v. In a housing based health facility that provides hospitality support services and personal health care, or
  - vi. That is made available in the course of providing rehabilitative or therapeutic treatment or services;
- h) Living accommodation in a correctional institution;
- i) Living accommodation rented under a tenancy agreement that has a term longer than 20 years;
- j) Tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies; or
- k) Prescribed tenancy agreements, rental units or residential property.

As per the testimony of the landlord I find this tenancy does not fall within the jurisdiction of the *Act* pursuant to Section 4(c).

#### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause; to a monetary order for unpaid rent; for cleaning; for strata fines; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 47, 55, 67, and 72 of the *Act*.

#### Conclusion

Based on the above, I decline to accept jurisdiction in the matters.

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: September 15, 2015

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Residential Tenancy Branch

