



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNSD, MNDC, FF*

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*, for a monetary order for the return of rent, return of double the security deposit and for the filing fee.

The tenant testified that he served the landlord with the notice of hearing on May 04, 2016, by registered mail, to the dispute rental address where the landlord resides. The tenant filed a copy of the tracking slip.

Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be Decided**

Is the tenant entitled to a monetary order for the return of double the security deposit, the return of rent and for the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on May 27, 2015 and ended on February 20, 2015. The monthly rent was \$650.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$300.00.

The rental unit consists of a two level house with three bedrooms on the upper level and a living room and kitchen on the main floor. Each level has a washroom. The tenant stated that he occupied a bedroom on the upper floor and shared the kitchen and living room on the main floor, with the landlord. The tenant also testified that the landlord is the owner of the home.

### **Analysis**

Based on the above facts I find that the owner of the rental unit and the tenant occupy different rooms in the home and share the kitchen.

Section 4 of the *Residential Tenancy Act*, addresses what the *Act* does not apply to. It states that the *Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Pursuant to Section 4, I find that the circumstances of the dispute do not fall within the jurisdiction of the *Act*, and the application must therefore be dismissed. The tenant is at liberty to pursue other remedies under common law. The tenant must also bear the cost of filing this application.

### **Conclusion**

The tenant's application is dismissed.

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: June 03, 2016

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Residential Tenancy Branch