



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement and to recover the filing fee from the landlord for the cost of this application.

The tenant and an agent for the landlord attended the conference call hearing and gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord's agent confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.

### Preliminary Issues

The tenant testified that he shares a kitchen with the landlord of the property but does have the use of his own bathroom. The landlord's agent testified that the landlord is also the owner of the property and resides in the property and the landlord shares the kitchen with any tenants. The landlord's agent testified that due to these shared facilities the tenancy is rather that of a shared house in a roommate situation.

### Analysis

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

In this case, I find that the tenant and landlord both provided testimony that the landlord is the owner of the property and did share the kitchen with the tenant.

In light of the testimony before me, I have considered the matter of Jurisdiction in this matter. I find the landlord is the owner of the property and the tenant did not have exclusive possession of the kitchen. As a result, I find that based on the above reason, the *Act* does not apply and therefore the Residential Tenancy Branch does not have jurisdiction in this matter.

I explained to the parties that they are at liberty to pursue these matters using other legal remedies.

### Conclusion

The tenant's application is dismissed pursuant to section 62(4)(b) of the *Act*.

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 07, 2016

---

Residential Tenancy Branch