



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HIGHSTREET ACCOMMODATIONS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, FF

### Introduction

A hearing was scheduled for 1:00 p.m. on today's date, via teleconference call, to deal with a Landlord's application for a Monetary Order for damage to a rental unit. The applicant appeared or was represented at the hearing; however, there was no appearance on part of the respondent. The applicant submitted evidence that the respondent was notified of this proceeding by way of registered mail sent on June 6, 2017 and the respondent did not pick up the registered mail. Section 90 of the Act deems a person to be served five days after mailing even if the person refuses to accept or pick up their mail. Accordingly, I found the respondent to be deemed served with notification of this proceeding and I continued to hear from the applicant.

### Preliminary Issue – Jurisdiction

The applicant submitted that on September 20, 2017 another Arbitrator had issued a decision to the applicant, with respect to a different living accommodation unit and different respondent, but involving similar circumstances (file number referenced on cover page of this decision). That Arbitrator in that case declined to take jurisdiction to resolve the matter having found that the living accommodation was exempt under section 4(f) of the Act which exempts "*living accommodation provided for emergency shelter or transitional housing*" from the Act.

The applicant stated that upon review of the September 20, 2017 decision, the applicant accepts that the living accommodation in this case is also exempt under section 4(f) of the Act. As with the previous case, the case before me also involves living accommodation that is provided under a license to occupy on a temporary or emergency basis. The applicant described how the respondent's home insurance provider contacted the applicant to arrange for temporary living accommodation for its

insured in response to an emergency at the insured's residence, such as a flood. The insurance provider pays the applicant for the accommodation.

Where jurisdiction is called into question, it is upon the applicant to prove the Act applies and the applicant is entitled to the remedies sought through the Residential Tenancy Branch. In this case, jurisdiction was raised as an issue and I was presented an undisputed and reasonable argument that the Act does not apply to the subject living accommodation. Therefore, I decline to take jurisdiction and the applicant's remains at liberty to seek resolution in the appropriate forum.

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: November 14, 2017

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Residential Tenancy Branch