



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MND, MNDC, MNSD, FF;    MNSD

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent, for damage to the rental unit, and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenants' cross-application pursuant to the *Act* for:

- authorization to obtain a return of the security deposit, pursuant to section 38.

The landlord and the tenants' agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenants' agent confirmed that she had authority to represent the two tenants named in these applications as an agent at this hearing.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

Preliminary Issue – Jurisdiction to hear Matter

Both parties agreed to the following facts. The rental unit was used by the tenants for a short-term vacation and travel accommodation, during the skiing season at a ski resort. The rental unit was advertised by the landlord as a temporary vacation accommodation on the “Airbnb” website. The initial three weeks of the tenants’ stay at the rental unit was through the Airbnb website. Thereafter, a written tenancy agreement was signed by both parties for a fixed term period from January 5 to April 30, 2017, after which the tenants were required to move out. The tenants have already vacated the rental unit.

Section 4(e) of the *Act*, outlines a tenancy in which the *Act* does not apply:

*4 This Act does not apply to  
(e) living accommodation occupied as vacation or travel accommodation.*

It is undisputed that the tenants occupied this rental unit for vacation and travel accommodation during the ski season. It is undisputed that the landlord advertised the rental unit for this purpose through the Airbnb website. Regardless of whether the parties used a Residential Tenancy Branch tenancy agreement form to confirm their short term tenancy, this does not alter the fact that this rental unit was used for vacation and travel accommodation.

The *Act* specifically excludes tenancies whereby the living accommodation is occupied as vacation or travel accommodation. Accordingly, I find that I am without jurisdiction to hear both parties’ applications because it is excluded by section 4(e) of the *Act*.

For the above reasons, I find that this is not a matter within the jurisdiction of the Residential Tenancy Branch. Accordingly, I decline jurisdiction over both parties’ applications. I informed both parties of my decision verbally during the hearing. I notified both parties that they could pursue their claims at the Provincial Court of British Columbia or the Supreme Court of British Columbia, if they wished to do so.

Conclusion

I decline jurisdiction over both parties' applications. I make no determination on the merits of both parties' applications.

Nothing in my decision prevents either party from advancing their claims before a Court of competent jurisdiction.

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: February 16, 2018

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Residential Tenancy Branch