



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFT, MNDCT, MNSD

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Applicant on May 2, 2018. The Applicant applied for compensation for monetary loss or other money owed, return of double the security deposit and reimbursement for the filing fee.

Both parties appeared at the hearing and were affirmed.

The Respondent raised the issue of whether the Residential Tenancy Branch has jurisdiction to decide this matter at the outset of the hearing. The Respondent said she is a tenant and lease holder of the rental unit. She testified that her lease allows for four occupants in the rental unit as there are four rooms and that she occupies one room and rents out the remaining rooms. She said she has the permission of her landlord, the owner of the rental unit, to rent out the rooms; however, she was not acting on behalf of her landlord when she rented a room to the Applicant. She said she rents out the rooms to cover her rent. She testified that she collects the rent for the rooms and that she pays rent to her landlord. She said her landlord only deals with her in relation to rent and that she is responsible for paying the full amount of rent to her landlord.

The Applicant was given an opportunity to respond to the evidence and submissions of the Respondent. I understood the Applicant's submission to be that the Respondent acted as a landlord and she understood the relationship to be that of landlord and tenant. The Applicant did not know what the relationship between the Respondent and Respondent's landlord was.

Section 1 of the *Residential Tenancy Act* (the "Act") sets out the definition of "landlord" as follows:

**"landlord"**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
    - (i) permits occupation of the rental unit under a tenancy agreement, or
    - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
  - (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
  - (c) a person, **other than a tenant occupying the rental unit**, who
    - (i) is entitled to possession of the rental unit, and
    - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
  - (d) a former landlord, when the context requires this;
- [Emphasis added]

Policy Guideline 13 addresses the issue of occupants and states on page two:

### **Occupants**

Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

The Respondent testified that she was not acting on behalf of her landlord when she rented the room to the Applicant and the Applicant did not dispute this. The Respondent testified that she is a tenant occupying one of the rooms in the rental unit and the Applicant did not dispute this. Based on the undisputed testimony of the Respondent, the Respondent does not fit within the definition of "landlord" set out in section 1 of the *Act*. Therefore, the *Act* does not apply to the relationship between the Applicant and Respondent and I have no jurisdiction to decide this matter. As stated in Policy Guideline 13, the Applicant was an occupant without rights or obligations under the *Act*.

### **Conclusion**

The Respondent is not a “landlord” as that term is defined in section 1 of the *Act* and therefore I have no jurisdiction to decide this matter.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: June 15, 2018

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Residential Tenancy Branch