



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MNSD, MNDCT, FFT

### Introduction

This decision pertains to the Applicant's application for dispute resolution made on April 30, 2018, under the *Residential Tenancy Act* (the "Act"). The Applicant sought the following relief under the Act: (1) a monetary order for the return of the Applicant's security deposit; (2) a monetary order for compensation; and, (3) a monetary order for recovery of the filing fee.

The hearing commenced at 1:30 p.m. with the Applicant and Respondent in attendance. After I confirmed the correct spelling of the parties' names and the issues of the application, the Respondent advised me that they received a Notice of Dispute Resolution Proceeding but did not know why they were required to attend, that they were not the landlord, and that the Applicant "had the wrong person."

I affirmed the Applicant. When I was reciting the affirmation to the Respondent, they interrupted me and exclaimed that they thought the Applicant was "a scam artist," that I "should be talking to the real landlord," and that they had nothing further to do say. The Respondent then exited the hearing at 1:33 p.m.

The Applicant testified that they mailed the Respondent the Notice of Dispute Resolution Proceeding package in early May 2018 by Canada Post Xpresspost. They did not remember the exact date and did not have the tracking number. However, as the Respondent attended the hearing, I find that the Respondent was sufficiently served for the purposes of the Act, pursuant to section 71 (2).

While I have reviewed all oral and documentary evidence submitted, only evidence pertaining to the preliminary issue of this application is considered in my decision.

### Preliminary Issue – Jurisdiction to Hear Matter

The Respondent disputed that they are a landlord or a party to this dispute.

In response to the Respondent's claim that they are not the landlord for the purposes of this application, the Applicant submitted that the Respondent is the landlord because their name is on a written tenancy agreement. They testified that the Respondent's name is also on a cheque that the Applicant used to pay for rent. The Applicant did not submit into evidence a copy of the tenancy agreement or a copy of the cheque.

I further note that the Applicant did not submit any additional documentary evidence establishing that the Respondent is a landlord, or, that there is a tenancy between the parties, for the purposes of this application.

The Applicant submitted screenshots of a text message conversation with the purported landlord, though the Respondent's name does not appear on any of the text messages.

### Analysis

In section 1 of the Act, a "tenancy agreement" means an "agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental units, use of common areas and services and facilities, and includes a licence to occupy a rental unit."

Section 2 (1) of the Act explains that "Despite any other enactment but subject to section 4 *[what this Act does not apply to]*, this Act applies to tenancy agreements, rental units and other residential property.

Taking into consideration the submissions of the parties, the absence of any documentary evidence that might establish the Respondent to be the "landlord," and the absence of any documentary evidence establishing the existence of a "tenancy agreement," I am unable to find that the Respondent is a "landlord" as defined in section 1 of the Act.

Accordingly, I find that in the absence of a landlord-tenant relationship, and in the absence of a tenancy agreement, I am without jurisdiction to consider the Applicant's application because it is excluded by section 2 (1) of the Act.

### Conclusion

I decline to hear the Applicant's application as I have insufficient evidence that I have jurisdiction under section 2 (1) 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 Act.

Dated: June 18, 2018

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Residential Tenancy Branch