



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing was convened in response to an application for dispute resolution pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for return of the security deposit - Section 38;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Applicant and Respondent were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the dispute under the jurisdiction of the Act?

### Background and Evidence

The following are undisputed facts: The Applicant rented a room in a house from the Respondent starting February 29, 2016. The Respondent is a tenant who rents the whole house from a 3<sup>rd</sup> party. The house contains 2 bedrooms in the lower level and 2 bedrooms in the upper level. The lower level has its own kitchen and bathroom. There is no lock between the levels and the Applicant could enter the upper level at any time if he so chose. The Applicant signed an agreement indicating that there were shared duties for the whole house. Rent of \$645.00 was payable on the first day of each month. At the outset of the agreement, the Respondent collected a security deposit of

\$322.50. The Applicant moved out of the room on December 3, 2016 but paid the full rent for December 2016. The Applicant claims return of the security deposit and other compensation.

### Analysis

Section 2 of the Act provides that the Act applies to tenancy agreements defined as agreements, whether written or oral, express or implied, between a landlord and a tenant. The Act defines a landlord as including, inter alia, a person, other than a tenant occupying the rental unit. Based on the undisputed facts that the Respondent is a tenant who rents the whole house from a 3<sup>rd</sup> party, and considering that access may be made by either the Respondent or the Applicant to both the lower and upper parts of the house I find that the Respondent occupies the whole house and that the agreement between the Parties is not an agreement between a landlord and a tenant. The Act therefore does not apply to the dispute and I dismiss the application.

### Conclusion

The dispute is not under the jurisdiction of the Act and I dismiss the application.

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: July 30, 2018

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Residential Tenancy Branch