



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FFT

### Introduction

This hearing dealt with an application by the tenant under the Residential Tenancy Act (the *Act*) for the following:

- return of the security deposit pursuant to section 38; and
- reimbursement of the filing fee pursuant to section 72.

The tenant appeared at the hearing and provided affirmed testimony. The tenant was given the opportunity to make submissions as well as present oral and written evidence.

The landlord did not appear at the hearing. I kept the teleconference line open from the time the hearing was scheduled for 15 minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct participant code for the landlord had been provided

The tenant testified the landlord was served with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on April 10, 2018 and deemed received by the landlord five days later on April 15, 2018 under section 90 of the *Act*. The tenant provided the Canada Post tracking number in support of service reference on the first page of the decision. Based on the undisputed testimony of the tenant, I find the landlord was served with the documents pursuant to section 89 of the *Act*.

### Issue(s) to be Decided

Is the tenant entitled to the following:

- return of the security deposit pursuant to section 38;
- reimbursement of the filing fee pursuant to section 72.

### Background and Evidence

The tenant testified she moved in to the landlord's home on January 15, 2018 and vacated on March 14, 2018. Rent was \$625.00 a month payable on the 15<sup>th</sup> of the month. The tenant paid a security deposit of \$325.00 which is held by the landlord. The tenant has not provided written authorization to the landlord to keep the deposit. The tenant did not provide the landlord with her forwarding address.

The tenant testified she rented a bedroom in the landlord's home. She testified that she and the landlord shared the use of the kitchen.

### Analysis

After hearing the testimony of the tenant, I find that I have no authority to hear or rule on this matter.

Section 4 of the *Act* notes;

**4** This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation, ...

The tenant stated that this accommodation consisted of a room in a home that the landlord also occupied. The tenant confirmed that the tenant did not rent a separate suite from the landlord and that the parties shared use of the kitchen facilities.

I find that the *Act* does not apply to this matter and I have no jurisdiction to make a decision because the evidence presented shows that the tenant shared kitchen facilities with the landlord of the accommodation.

Conclusion

I decline to rule on this matter as I have no jurisdiction to consider this 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: October 19, 2018

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Residential Tenancy Branch