



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAYFAIR TERRACE  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      MNSD, FFT

### Introduction

The applicant filed an application for dispute resolution on July 17, 2018, pursuant to section 59 of the *Residential Tenancy Act* (the “Act”). The applicant sought compensation related to a security deposit and for recovery of the filing fee.

The applicant and three representatives of the respondent attended the hearing, though only one representative provided submissions.

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

### Preliminary Issue: Jurisdiction to hear matter

Where a party to a dispute resolution hearing raises jurisdiction as an issue, the onus is on that party to establish that I do not have jurisdiction under the Act to hear the application.

The Respondent provided written and oral submissions in which they argued that the living accommodations to which this application concerns fall under section 4(g)(i) of the Act, and as such the Act does not apply. Further, the respondent testified and confirmed that their facility is subject to health authority inspections and is licensed under the *Community Care and Assisted Living Act*. The facility's license number was provided to me during the hearing.

### Analysis

Sections 4 and 4(g)(i) of the Act states that “This Act does not apply to [. . .] living accommodation [. . .] in a community care facility under the *Community Care and Assisted Living Act*.”

In obtaining confirmation of the facility’s status, including license information, I confirmed that the facility was a duly licensed community care facility pursuant to section 5 of the *Community Care and Assisted Living Act*.

Taking into consideration the submissions of the respondent, I find that the respondent is a community care facility under the relevant legislation and as such the Act does not apply to this application. Accordingly, I find that I am without jurisdiction to consider the applicant’s application because it is excluded by section 4(g)(i) of the Act.

### Conclusion

I decline to hear the applicant’s application as I am without jurisdiction, pursuant to section 4 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: September 20, 2018

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Residential Tenancy Branch