



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      MNDCT, MNSD, FFT

### Introduction

On August 10, 2018, the Applicant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*") to request a monetary order for losses due to the tenancy, to request the return of her deposit, and to recover the filing fee paid for this application. The matter was set for conference call.

Both parties attended the conference call hearing and were affirmed to be truthful in their testimony. The parties were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions at the hearing.

### Preliminary Matter - Jurisdiction

At the outset of the hearing the issue of jurisdiction as addressed. Both parties were given a full opportunity to address the issue as follows.

Both the Applicant and the Respondent testified that the facility in which the rental unit is located provides hospitality support, in the form of meal services and housekeeping and that the Applicant also received personal health care and assisted living services.

### Analysis

Based on the above, the testimony and evidence, I find as follows:

I accept the testimony of the parties that this living accommodation had been based on the facility providing hospitality support services and personal health care to the Applicant.

Section 4 of the *Act* defines the types of housing agreement that are not covered by the *Act*. Section 4 of the *Act* states the following:

**What this Act does not apply to**

**4** This Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- (d) living accommodation included with premises that
  - (i) are primarily occupied for business purposes, and
  - (ii) are rented under a single agreement,
- (e) living accommodation occupied as vacation or travel accommodation,
- (f) living accommodation provided for emergency shelter or transitional housing,
- (g) living accommodation
  - (i) in a community care facility under the *Community Care and Assisted Living Act*,
  - (ii) in a continuing care facility under the *Continuing Care Act*,
  - (iii) in a public or private hospital under the *Hospital Act*,
  - (iv) if designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,
  - (v) in a housing based health facility that provides hospitality support services and personal health care, or
  - (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,
- (h) living accommodation in a correctional institution,
- (i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,
- (j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies, or
- (k) prescribed tenancy agreements, rental units or residential property.

Pursuant to section 4(g) of the *Act*, I find that this living accommodation was based on providing hospitality support services and personal health care to the Applicant.

Therefore, I decline to accept jurisdiction over the Applicant's dispute with the Respondent.

The Parties are at liberty to seek an appropriate legal remedy to this dispute.

### Conclusion

For a reason stated above, I decline jurisdiction to resolve this dispute.

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: December 11, 2018

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Residential Tenancy Branch