



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction and Conclusion

This hearing convened as a result of a Tenants' Application for Dispute Resolution filed on October 3, 2018 wherein the Tenants sought return of their security deposit and recovery of the filing fee.

The hearing was scheduled for 1:30 p.m. on January 29, 2019. Only the Tenant, B.A., and his agent, A.M., called into the hearing.

As the Landlord failed to call into the hearing service of the Tenant's hearing package was considered. The Tenant was not able to provide details regarding service claiming that his agent, A.M., had filed on his behalf. After approximately 15 minutes of hearing, the Tenant's agent called into the hearing. She stated that she did not serve the Landlord with Notice of the Hearing or the Tenants' Application as she believed the Tenant would do so.

As noted during the hearing, one of the principles of natural justice is that a party to a dispute has the right to know the claim against them, including the right to review and respond to any evidence submitted by the other party, and a meaningful opportunity to attend the hearing and provide evidence and submissions with respect to their position. In this case, I am unable to find that the Landlord was served with Notice of the Hearing; as such, to proceed with the hearing in the absence of the Landlord would be a breach of natural justice.

In any event, the Tenant, B.A., and his agent, A.M., confirmed that the tenancy was for a month and was in fact a fully furnished vacation rental.

Section 4 of the *Residential Tenancy Act* provides a list of matters over which the *Act* does not apply; vacation rentals are one such matter as provided for in paragraph 4(e) which reads as follows:

**What this Act does not apply to**

**4** This Act does not apply to

...

(e) living accommodation occupied as vacation or travel accommodation,

As such, and pursuant to section 4(e) of the *Act* I lack jurisdiction over this matter. The Tenant may pursue his claim in the B.C. Provincial Court (Small Claims Division).

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: January 30, 2019

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Residential Tenancy Branch