



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL YORK CAPITAL LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            MNDCT, OPT

### Introduction

This hearing dealt with the Applicant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for losses or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- an Order of Possession of the rental unit pursuant to section 54.

Both parties attended the beginning of this hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

After the first ten minutes of this hearing, the Applicant disconnected from this hearing and did not reconnect, although I waited over twenty minutes to enable them to reconnect with the teleconference. As allowed under the Rules of Procedure for the Residential Tenancy Branch, I proceeded without further participation by the Applicant. Before I ended this hearing, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing and were still active. During the hearing, I also confirmed from the online teleconference system that the Respondent and I were the only ones who had remained on the line in this teleconference.

As the Respondent confirmed that they received a copy of the Applicant's dispute resolution hearing package sent by the Applicant by registered mail on March 25, 2019. I find that the Respondent was duly served with this package in accordance with section 89 of the *Act*. Since both parties confirmed that they had received one another's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

### Issues(s) to be Decided

Have the parties entered into a tenancy with one another? If so, is the Applicant entitled to an Order of Possession? Is the Applicant entitled to a monetary award for losses or other monies owed arising out of any tenancy that may exist between these parties?

### Background and Evidence

The Applicant entered into written evidence a copy of a Shelter Information Form (Intent to Rent Form) on Ministry of Social Development and Poverty Reduction (the Ministry) stationery, submitted to that Ministry on March 1, 2019. That Shelter Information Form identified this rental unit, the prospective landlord's name and a stated monthly rent of \$850.00, of which the Ministry would look after one-half as a shelter assistance to the Applicant. The Applicant was the sole name shown as the prospective tenancy for this proposed tenancy. The Form specifically notes that "this is NOT a tenancy agreement" (emphasis in original). It also notes that "This form should be used ONLY if a tenancy agreement is NOT available" (emphasis in original) and that "This form is for ministry information only."

In their application for dispute resolution, the Applicant maintained that they entered into a Residential Tenancy Agreement with the Respondent's representatives for a tenancy that was to begin on March 1, 2019 and run until February 29, 2020.

The Applicant's Monetary Order Worksheet identified the following elements of the claim for a monetary award of \$3,650.00:

<b>Item</b>	<b>Amount</b>
Return of Security Deposit from Property where the Tenant was Previously Residing	\$387.50
Moving and Expenses	750.00
Emotional Distress, Misplacement and Homelessness	2,500.00
<b>Total Monetary Order (Total of Above Items \$3,637.50)</b>	<b>\$3,650.00</b>

At the hearing, the Applicant confirmed that the security deposit requested was for another property where they had been living prior to giving their notice to end that tenancy and on the basis that they were going to be commencing a tenancy with the Respondent in their current application. The Applicant also testified that an unsigned receipt they had entered for moving expenses was from a small local moving company, which neither the receipt nor the Applicant identified.

The parties entered into written evidence two different copies of a Residential Tenancy Agreement (the Agreement) created by the Respondent. Neither of these copies were signed by any representative of the Respondent company. At the hearing, the Respondent's representative, the President of that company, testified that the Applicant had never provided them with a copy of the Intent to Rent Form, and that no one signed that Form for forwarding to the Ministry.

On the copy of the Agreement entered into written evidence by the Applicant, the Respondent provided written evidence and sworn testimony that someone appeared to have tried to enter a signature in a space for the landlord's signature, but had "whited it out." The Respondent's copy had no such obscured "whited out" section in the signature portion of the Agreement. However, on both copies of the Agreement, the Applicant had added another name in handwriting to the typed version prepared by the Respondent as a tenant. This second person, unknown to the Respondent, signed both of the copies as a tenant in both the copies entered into written evidence by the Applicant and the Respondent.

The Respondent also provided written evidence that the Applicant did not pay the amount of monthly rent identified in the Agreement and security deposit that would have been required by the date cited in the Agreement. There is evidence that the Applicant did not send \$50.00 of the amount that would have been owing by e-transfer or other means to the Respondent had a tenancy been entered into on the basis of the terms of the Agreement forwarded to the Applicant.

The Respondent provided written evidence that the Agreement form given to the Applicant was a preliminary form that needed to be checked and verified for references, identification and terms before any Respondent representative would have agreed to enter into a tenancy with the Applicant. The Respondent provided sworn testimony supported by written evidence from both parties that the Applicant did not provide the required photographic identification to verify their identity until after the Respondent had decided to not enter into an Agreement with the Applicant and the person the Applicant had arbitrarily added to the Agreement provided to them by the Respondent. The Respondent also entered into written evidence considerable documentation to support their conclusion that their check of the background of the Applicant and their proposed Co-Tenant would not lead to the Respondent entering into a Tenancy Agreement with this couple.

### Analysis

Based on the written evidence provided by the parties, and the sworn testimony I heard from both parties during the portion of this hearing when the Applicant was present and the remainder of the Respondent's sworn testimony, I find on a balance of probabilities that no tenancy agreement was entered into between these parties. As such, I have no jurisdiction to consider this application.

In coming to this conclusion, I rely on the Applicant's insertion of an extra name, an individual who by the Applicant's own evidence was not identified as a prospective tenant in either the Shelter Information Form submitted to the Ministry or on the Agreement provided to the Applicant by the Respondent's representatives. The Applicant's modification of the proposed Agreement effectively negated any contractual agreement that may have been entered into by the Respondent by producing an Agreement for the Applicant's signature. By unilaterally and arbitrarily adding this name to both the Agreement as a Co-Tenant and as the only signature

provided by the Applicant to the Respondent, a different contract would have needed to have been established between the Respondent and the two Co-Tenants. There is no evidence that the Respondent was ever asked to consider the second individual as a Co-Tenant until the second individual's name appeared on the Agreement presented for the Respondent's signature.

I also find that the Applicant did not sign the Agreement provided to the Respondent, that the Respondent never accepted the Applicant's etransfer payments for monthly rent and a security deposit, and that the Applicant did not pay all of the consideration that was identified in the proposed Agreement. All of these findings support my conclusion that no tenancy agreement existed between the Applicant and the Respondent.

As no tenancy agreement existed between these parties, I have no jurisdiction in this matter.

#### Conclusion

I decline to hear 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: April 25, 2019

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Residential Tenancy Branch