



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CLAY & COMPANY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT MNSD RPP

### Introduction

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

- the return of the security deposit pursuant to section 38 of the *Act*;
- an order for the return of personal property pursuant to section 65 of the *Act*; and
- a monetary order for compensation for damage or loss pursuant to section 67 of the *Act*.

### Preliminary Issue – Jurisdiction

Both parties attended the hearing. At the outset of the hearing, the respondent asserted that there was no jurisdiction for the Residential Tenancy Branch in this matter as there was no landlord-tenant relationship between the respondent and the applicant. I note that there was no written tenancy agreement or any tenancy-related evidence submitted by the applicant for this matter. The applicant explained that tenants of a different address had abducted her and taken her to the dispute address named in this matter. The applicant advised that she only had medical documentation providing the dispute address, but that she did not have any documentation to support her claim of a landlord-tenant relationship pertaining to the dispute address in this matter.

I explained to the parties that in accordance with Rule 6.6 of the Rules of Procedure, the applicant bears the burden to prove their claim on a balance of probabilities. In this matter, I find that the applicant has failed to meet the burden of proof to establish that a tenancy agreement existed between the parties.

Section 2(1) of the *Act* reads as follows:

*Despite any other enactment but subject to section 4 [what this Act does not apply to], this Act applies to tenancy agreements, rental units and other residential property.*

As such, I advised the parties that given the circumstances and based on the testimony before me, I find that pursuant to section 2(1) of the *Act*, the *Act* does not apply to the circumstances under dispute in this matter as the applicant was unable to establish a tenancy agreement existed between the parties. I therefore declined to hear the matter as I have no jurisdiction to render a decision in this matter. The application is dismissed without leave to reapply.

I note that the applicant provided a hearing file number for another hearing scheduled between the applicant and a different respondent at the same time (9:30 a.m. on October 21, 2019) as this hearing. I have noted the file number on the cover sheet of this decision. It would appear there was a hearing scheduling issue and as the applicant was in this hearing, the applicant was prevented from attending the other hearing scheduled at the same time. The respondent in this hearing confirmed this information as he had been sent the notice of hearing for this hearing and the other hearing, although the respondent for this hearing was not named in the other matter.

### Conclusion

I declined to hear this matter as I have no jurisdiction to consider this application. As such the application is dismissed without leave to reapply.

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 22, 2019

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Residential Tenancy Branch