



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FFT

### Introduction

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

- authorization to obtain a return of double the amount of the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord and the two tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 12 minutes.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package and the tenants confirmed receipt of the landlord's evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application and the tenants were duly served with the landlord's evidence.

### Preliminary Issue – Jurisdiction to hear Matter

At the outset of the hearing, the landlord stated that she, as the owner of the rental unit, shared a kitchen and bathroom with the tenants during this tenancy. The tenants agreed that they shared the kitchen and bathroom with the landlord.

Section 4(c) of the *Act*, outlines a tenancy in which the *Act* does not apply:

*4 This Act does not apply to*

*(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation...*

It is undisputed that the landlord owns the rental unit and that she shared the same kitchen and bathroom with the tenants during this tenancy.

The *Act* specifically excludes the owner of a rental unit who shares a kitchen and bathroom with the tenants. Accordingly, I find that I am without jurisdiction to consider the tenants' application because it is excluded by section 4(c) of the *Act*.

For the above reasons, I find that this is not a matter within the jurisdiction of the Residential Tenancy Branch. Accordingly, I decline jurisdiction over the tenants' application.

### Conclusion

I decline jurisdiction over the tenants' application.

I make no determination on the merits of the tenants' application.

Nothing in my decision prevents either party from advancing their claims before a Court of competent jurisdiction.

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 01, 2019

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Residential Tenancy Branch