



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, MNRL

### Introduction

On November 8, 2019 the Applicant submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- a monetary order for unpaid rent; and
- an order granting recovery of the filing fee.

The Applicant and the Respondent attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

At the start of the hearing, the parties testified and agreed that the Applicant began renting a room in her home to the Respondent at the end of August 2019. The Applicant stated that the Respondent was responsible for paying her rent in the amount of \$800.00 a month. The Applicant stated that the Respondent was not required to pay a

security deposit and that both the Applicant and Respondent shared the common areas including the kitchen and bathroom in the upper portion of the rental property.

The parties stated that the Applicant required use of the room being occupied by the Respondent for a different occupant. As such, on October 8, 2019 the Respondent was asked to move into the lower portion of the rental property, which was typically used as a short-term vacation rental. The Applicant stated that the parties negotiated a new agreement which required the Respondent to pay \$1,200.00 a month to occupy the lower portion of the home.

The Respondent stated that he was not agreeable to this arrangement and did not wish to change the original shared accommodation arrangement. The Respondent stated that he paid rent for the month of October 2019 before ending the tenancy on October 30, 2019.

The Applicant stated that the Respondent failed to provide any notice that he was ending the tenancy on October 30, 2019. As such, the Applicant is seeking compensation in the amount of \$1,200.00 as she was unable to re-rent the rental unit for the month of November 2019.

The Applicant is also seeking \$60.00 for utilities. The Applicant stated that the Respondent was observed overusing the heat which contributed to higher heating costs. If successful, the Application is seeking the return of the filing fee.

Section 4(c) of the *Act* confirms that the *Act* does not apply to living accommodation in which the owner shares bathroom or kitchen facilities with the Respondent. In this case, the Applicant testified that she shared common areas with the Respondent during the majority of the tenancy, which included the kitchen as well as bathroom facilities.

I accept that near the end of the tenancy, the Respondent was asked to move downstairs, however, the Applicant provided insufficient evidence to demonstrate that the parties agreed to this change in terms. I find that at the start of the tenancy the parties entered into a shared living situation which was the intent of the tenancy.

Accordingly, pursuant to section 4(c) of the *Act*, I find the *Act* does not apply to the agreement between the parties. The Application is dismissed for lack of jurisdiction.

Conclusion

I decline to proceed due to a lack of jurisdiction, and the Application is dismissed without leave to reapply. The Applicant should seek legal advice from their lawyer as to how 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: March 31, 2020

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Residential Tenancy Branch