



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDCT

### **Introduction**

The hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*; and

The landlord, the tenant and her two Advocates KS and GM attended the hearing via conference call. The landlord and tenant were given an opportunity to be heard, to present sworn testimony and to make submissions.

The tenant's Advocate advised the landlord was served the Notice of Dispute Resolution together with the evidentiary package by registered mail on February 6, 2020. I find that this satisfied the service requirements set out in sections 88 and 89 of the *Act*. A copy of the Canada Post tracking number is listed on the first page of this decision.

The landlord affirmed that she served the tenant with her evidentiary package on June 12, 2020. Both parties confirmed receipt and service of the documents.

### **Issues**

Is the tenant entitled to a monetary order pursuant to section 67 of the *Act*?

### Background and Evidence

The parties agreed the tenant rented a unit from the landlord from November 2, 2018 until the tenant was evicted on January 20, 2019.

The tenant provided a copy of the receipt for rent dated October 31, 2018. On the upper left corner of the document is the name of the renting business which included the word “motel”.

Rent was \$850.00 a month and the tenant provided a security deposit of \$425.00

The landlord claimed that the Arbitrator has no jurisdiction pursuant to section 4(3) as the unit was in a motel and came under the authority of the *Innkeepers Act*. The landlord affirmed that she was retaining the security deposit as there were issues with regards to drugs and damage to the rental unit.

The tenant affirmed that the agreement was a standard month to month tenancy and the landlord did not provide any services. Advocate confirmed that the monthly rent was sent by the Ministry of Welfare. The Advocate argued that the landlord had received the rent for part of January 2020 and for the complete month of February 2020.

### Analysis

#### *Jurisdiction*

The parties agreed that the tenant rented a unit from the landlord from November 2018. However, the landlord objected to the jurisdiction of the Arbitrator to hear the matter as the unit was in a travel accommodation self-described as a “motel” and being akin to a lodge. As the *Act* does not apply to “travel and vacation accommodation”, the landlord submitted that the Arbitrator did not have jurisdiction to hear this matter.

Section 2(1) of the *Act* states that the *Act* applies to tenancy agreements, rental units and other residential property, as follows:

*What this Act applies to*

*2 (1) 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.*

Section 1 defines “tenancy” and “tenancy agreement”:

*"tenancy" means a tenant's right to possession of a rental unit under a tenancy agreement;*

*"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;*

Section 4(3) of the Act states as follows:

*This Act does not apply to living accommodation occupied as vacation or travel accommodation.*

*Residential Tenancy Policy Guideline #19 notes:*

*The Residential Tenancy Act does not apply to living accommodation occupied as vacation or travel accommodation. If a property owner or their agent rents out their unit or property as a vacation or travel accommodation, they have no recourse through the Residential Tenancy Branch for relief under the Act.*

Based on the above legislation. I find that I do not have jurisdiction to deal with the matter under the *Residential Tenancy Act or Regulations* and dismiss this application without leave to reapply.

### Conclusion

I dismiss this application 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: June 26, 2020

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Residential Tenancy Branch