



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OLC, MNDCT, DRI**

### Introduction

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

- An order that a landlord comply with the Act, regulations or tenancy agreement pursuant to section 62;
- A monetary award for damages and loss pursuant to section 67; and
- Dispute of a rental increase pursuant to section 43.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

As both parties were present service was confirmed. I find that the respondent was duly served with the application and evidence pursuant to sections 88 and 89 of the *Act* and that no evidence was served on the applicant.

### Issue(s) to be Decided

Do I have jurisdiction to make a determination on this matter?

### Background and Evidence

The parties agree on the following facts. The rental unit is a suite in a detached house. The respondent is not the owner of the property nor do they act as agent for the property owners. The respondent resides in the property and rents out suites to the applicant and other occupants. The respondent collects rent from the applicant but does so on their own behalf and not as agent for the owners of the property.

## Analysis

Landlord is defined in section 1 of the *Act* as:

- (a) The owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement...
  
- (c) a person, other than a tenant occupying the rental unit...

Residential Tenancy Policy Guideline 19 provides that a sublet is where the original tenancy agreement remains in place and the tenant and the sub-tenant enter into a new sub-lease agreement. The tenant effectively becomes the "landlord" of a new sub-lease tenancy agreement.

Guideline 19 provides that, "unless the tenant is acting as an agent on behalf of the landlord if the tenant remains in the rental unit, the definition of landlord in the *Act* does not support a landlord/tenant relationship between the tenant and the third party. The third party would be considered an occupant/roommate, with no rights or responsibilities under the *Residential Tenancy Act*."

In the case at hand, based on the undisputed evidence provided, the respondent was not acting as agent of the property owners. The respondent was residing in the rental building at all material times. Accordingly, I find that the applicant is considered an occupant/roommate and the *Act* does not apply to the relationship.

Under these circumstances and based on the evidence before me, I find that the *Act* would not apply to this living arrangement. I therefore have no jurisdiction to render a decision 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: August 10, 2020

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Residential Tenancy Branch