



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, FF

### Introduction, Preliminary and Procedural Matters-

This hearing dealt with the applicant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order requiring the respondent to comply with the Act, regulations, or tenancy agreement; and
- recovery of the filing fee.

The applicant and the agents for the respondent attended the hearing and were affirmed.

The parties were informed before and at the start of the hearing that recording of the dispute resolution hearing is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). All parties affirmed they were not recording the hearing.

The applicant was questioned about filing for remedy under the Act when the spaces in question were storage units located in a self-storage facility.

The applicant insisted the Act applied and could demonstrate why that was the case. The agent said they are a storage facility and they are not under the jurisdiction of the Act.

The applicant was provided the opportunity to present his case on jurisdiction.

I have reviewed all oral and written evidence before me that met the requirements of the Rules. However, not all details of the parties' respective submissions and or arguments

are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Does the Act apply to this dispute, and if so, is the applicant entitled to the unspecified relief sought?

### Background and Evidence

While the applicant did not specify the exact relief they sought, such as stating which section of the Act to which the request pertained, it is believed that the applicant disputes an increase in storage fees notice given by the self-storage company for the units rented by the applicant.

In support of their application, the applicant wrote:

*1. Rental contract with company for rental of two self-storage units dated Sept 16 2021 for \$183.75 2. I had been asked to leave previous rental home (landlord family moving in) & could not find new rental home due to extremely low vacancy coupled with skyrocketing rents in the (area). I purchased an RV to live out of and moved some belongings to self storage 3. Nov 27 2021 received email for rent increase effective Jan 1st 2022 4. BC Residential Tenancy Act only remedy for storage units*

The applicant argued, in relevant part, the following:

No other law in Canada applied to the situation here, such as regulating rent charged by self-storage businesses. The Act mentions storage facilities, so the Act must apply to the applicant's situation.

The self-storage business charges rent, for the right to possess the unit.

The Act does not specifically state that self-storage units are excluded from jurisdiction under section 4.

The applicant has a rental agreement with the respondent.

The applicant was forced to move from their rental unit by their landlord, and due to having moved the majority of their personal home contents into the self-storage units, by extension, those units were living accommodations. The tenant said he moved to a travel trailer, due to their inability to find affordable housing.

The agent in response said they would follow the requirements of the Warehouse Liens Act.

### Analysis

I have considered the relevant evidence of each party and reached a decision taking into account the Act, Regulation, policy, on the balance of probabilities.

Section 6 of the Act authorizes me to resolve disputes between landlords and tenants.

In order for me to hear this dispute, the applicant must show that the Residential Tenancy Act applies. In order to find the Act applies, I must be satisfied that the parties entered into a residential tenancy and that the parties had a landlord and tenant relationship.

Residential Tenancy Policy Guideline 27 states that the Residential Tenancy Branch does not have the authority to hear all disputes regarding every type of relationship between two or more parties. The jurisdiction conferred by the Legislation is over landlords and tenants.

In determining whether there is a tenancy, Tenancy Policy Guideline 9 provides information. A tenancy agreement under the Act is 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.

Further, under a tenancy agreement, a tenant is granted exclusive possession of the rental unit for a term, which may be on a monthly or other periodic basis.

An arbitrator will weigh all the factors for and against finding that a tenancy exists.

In section 1 of the Act, a rental unit is defined as living accommodation rented or intended to be rented to a tenant. I find a reasonable interpretation of a living accommodation is to mean the property or space in question is for residential purposes.

The units in question here are for storing personal property at a self-storage business, and not for a living accommodation, as there are no bathroom or kitchen facilities, among many other things. The tenant agrees they do not reside in the storage units.

For these reasons, while the tenant may be paying rent for self-storage units from a self-storage business, I find they are not rental units used for residential purposes as defined by the Act.

Under the Act, a 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”.

As I have found the units in this application are not rental units under this Act, I likewise find the parties have not entered into a residential tenancy agreement.

Under section 1 of the Act, a landlord, in relation to a rental unit, includes, in relevant part,

*(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; ....*

As I have found that the self-storage units in this dispute are not rental units under the Act, I find the respondent is not a landlord under the Act.

I also do not accept the applicant's arguments that as the words “storage facilities” are found in the Act, the Act must apply, as form of a default.

Under the Act, I find a reasonable interpretation is that a storage facility is an amenity that a landlord may provide to a tenant of a rental unit under a tenancy agreement, as indicated by section 1 of the Act. I find insufficient evidence by the applicant this amenity under the Act pertaining to residential tenancies applies to private, self-storage businesses who are not renting living accommodation for residential purposes.

I also do not accept the tenant's arguments that the absence of storage facilities being specifically excluded under section 4 of the Act means that the Act could apply to self-storage units at a self-storage business. I do not find this argument reasonable or makes sense. The exclusions mentioned pertained to other "living accommodation". The tenant presented insufficient evidence that they lived in the self-storage unit, specially stating they lived in a travel trailer, and I do not find it reasonable that the makers of the Act could possibly list every circumstance in which the Act does not apply.

As I have found that the self-storage units are not rental units as defined by the Residential Tenancy Act, that the parties have not entered into a residential tenancy agreement, and that the respondent is not a landlord as defined by the Act, I find I have no jurisdiction to decide this dispute.

As a result, I dismiss the applicant's application without leave to reapply.

### Conclusion

The applicant's application is dismissed, without leave to reapply, as I find I have no jurisdiction under the Act to decide 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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: February 9, 2022

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Residential Tenancy Branch