



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT

### Introduction

On March 15, 2022, the Applicant applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”).

The Applicant attended the hearing, with P.B. attending as an advocate for the Applicant. The Respondent attended the hearing as well, with R.T. attending as an agent for the Respondent. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms and provided a solemn affirmation.

P.B. advised that the Notice of Hearing and evidence package was served to the Respondent on or around September 15, 2021 by Xpresspost and the Respondent confirmed that she received this package. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Respondent was duly served the Applicant’s Notice of Hearing and evidence package. As the Applicant’s evidence was served in accordance with the timeframe requirements of Rule 3.14 of the Rules of Procedure, I have accepted his evidence and will consider it when rendering this Decision. However, as the Applicant’s late evidence was not served to the

Respondent, this will be excluded and will not be considered when rendering this Decision.

The Respondent advised that her evidence was served to the Applicant on February 8, 2022 by registered mail, and P.B. confirmed that the Applicant received this package. As the Respondent's evidence was served in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Applicant entitled to monetary compensation?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

P.B. advised that the parties verbally agreed to start a tenancy as of September 1, 2021; however, the Respondent did not allow the Applicant to move in. She stated that rent was established at an amount of \$950.00 per month and was due on the first day of each month. Neither rent nor a security deposit were ever paid. She submitted that a tenancy agreement was never signed, but text messages confirmed their agreement. She referenced text messages submitted as documentary evidence to support the Applicant's position that a tenancy agreement was established, and she read from a statement written by the Applicant. The Applicant is seeking compensation in the amount of **\$2,700.00** because of losses incurred when the Respondent did not honour the tenancy agreement.

R.T. advised that a tenancy was not established because a tenancy agreement was never signed and none of the requirements of Section 13 of the *Act*, with respect to a tenancy agreement, were ever established. He referred to text messages submitted as documentary evidence where the Respondent indicated that she did not want to rent to the Applicant.

The Respondent advised that the Applicant never paid her any monies for a tenancy, and that she told him that she did not want to do anything until she was ready.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

When reviewing the undisputed evidence before me, while I acknowledge that the parties may have been contemplating a tenancy, I note that the Respondent is required to have a signed tenancy agreement in accordance with the *Act*. In this instance, the parties never signed a tenancy agreement to establish that a tenancy agreement was ever engaged in.

Furthermore, I do not find that their communications ever fulfilled any of the requirements of Section 13 of the *Act* to constitute a tenancy agreement. Finally, an unwritten tenancy agreement may be determined to have started if monies have been exchanged. However, in this instance all parties agreed that no monies were paid by the Applicant.

Given all of these factors, I find that even if the parties intended upon entering into a tenancy agreement as contemplated under Section 1 of the *Act*, I am satisfied that there is no Landlord/Tenant relationship between the parties as a tenancy agreement was never established.

### Conclusion

The Applicant's Application is dismissed 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: March 16, 2022

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Residential Tenancy Branch