



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDCT, MNRT, MNETC, FFT

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenants applied for:

- an order for the landlord to return the security and pet damage deposits (the deposits), pursuant to section 38;
- a monetary order for compensation for damage or loss under the Act, Residential Tenancy Regulation or tenancy agreement, pursuant to section 67;
- a monetary order for the cost of emergency repairs, under sections 33 and 67;
- a monetary order related to a notice to end tenancy for landlord's use of the property, pursuant to section 51 of the Act; and
- an authorization to recover the filing fee for this application, under section 72.

Tenant JJ, agent LR and landlord KK (the landlord) attended the hearing. Agent LR (the agent) represented tenants JJ, CR and DM. Witness for the landlord SK also attended.

The rental unit was a single-family house containing an upper and a lower suite. The application indicates the rental unit is a single unit.

The agent affirmed that DM rented the upper unit from the landlord and JJ and LR rented the lower unit from DM on August 01, 2020, as the landlord verbally authorized DM to rent the lower unit to JJ and LR. The agent stated that JJ and CR paid the deposits and rent to DM.

JJ testified that she started paying rent to the landlord 6 months to one year after the tenancy began. The agent said that JJ and LR started paying rent to the landlord on September 27, 2021. The landlord affirmed he received rent from JJ and LR for the lower unit in October or November 2021.

The landlord stated he rented the upper unit to DM on June 01, 2018 and the lower unit to other tenants not listed in this application for dispute resolution. The landlord did not authorize DM to rent or sublet the lower unit.

The landlord submitted into evidence a tenancy agreement indicating the upper unit was rented to DM starting on June 01, 2018. The tenancy agreement dated May 16, 2018 is signed by the landlord and tenants DM and CK.

The agent testified that she is currently aware that JJ and CR have a conflict with DM.

The act defines landlord 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;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;

Based on the parties' testimony and the May 16, 2018 tenancy agreement, I find that the landlord rented the upper unit to DM, DM, acting as a landlord, rented the lower unit to JJ and CR and, at a later point, JJ and CR started paying rent for the lower unit to the landlord.

Section 59(2)(b) of the Act states: "an application for dispute resolution must include full particulars of the dispute that is to be subject to the subject of the dispute resolution proceedings".

Rule of procedure 6.1 states: "The arbitrator will conduct the dispute resolution process in accordance with the Act, the Rules of Procedure and principles of fairness."

I find the application does not indicate that there were two tenancy agreements in place and implied that JJ, CR and DM rented the rental unit as a single tenancy agreement. I find it is not fair to proceed with this application, as the application does not indicate that

there were two tenancy agreements in place, and this is a relevant particular in this dispute. It is not clear if JJ and CR are seeking an order for the respondent or DM to return the deposits. Furthermore, JJ, CR and DM are all listed as applicants and JJ and CR have a conflict with DM.

In light of the above, I find it is fair to dismiss this application with leave to reapply. Leave to reapply is not an extension of timeline to apply.

The tenants must bear the cost of the filing fee, as the tenants were not successful.

### Conclusion

I dismiss the tenants' application with 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: August 30, 2022

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Residential Tenancy Branch