



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNSDS-DR, 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 deposit (the deposit), under section 38; and
- an authorization to recover the filing fee for this application, under section 72.

Tenants CR (the tenant) and JW and the respondent, represented by agents LC (the landlord), AM and VK, attended the hearing. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure and section 95(3) of the Act.

As both parties were present service was confirmed. The parties each confirmed receipt of the application and evidence (the materials). Based on the testimonies I find that each party was served with the respective materials in accordance with section 89 of the Act.

The landlord affirmed the Residential Tenancy Branch (RTB) does not have jurisdiction, as the tenancy was not under the Act. The tenant affirmed the tenancy was under the Act.

The tenancy agreement lists the landlord as "Village Gate Homes a division of UBC Properties Trust". The application lists the respondent landlord as "Village Gate Homes".

Both parties agreed that the rental unit's owner is The University of British Columbia Property Trust (hereinafter, the Trust). The Trust is a wholly owned subsidiary of the University of British Columbia (hereinafter, the Educational Institution). The Educational Institution is also the beneficiary of the Trust. Village Gate Homes is a subsidiary of the Trust. The Educational Institution only rented the rental unit to the tenant because he is an employee of the Educational Institution.

The tenancy agreement indicates the tenancy is under the Act. The landlord affirmed the Act prevails over the tenancy agreement.

Section 4(b) of the Act states the Act does not apply to "living accommodation owned or operated by an educational institution and provided by that institution to its students or employees"

RTB Policy Guideline 27 states:

The RTA does not apply to living accommodation owned or operated by an educational institution and provided to students or employees of the institution. If an educational institution provides accommodation to individuals other than its students or employees, the RTA may apply.

Based on the undisputed testimony and the tenancy agreement, I find the rental unit is owned by the Trust, which is a wholly owned subsidiary of the Educational Institution. I further find that the Educational Institution rented the living accommodation to the tenant because the tenant is an employee of the Educational Institution.

Per section 4(b) of the Act, I do not have jurisdiction to hear this matter, as the rental unit is owned by an educational institution and provided by that institution to its employees.

The parties are at liberty to seek legal remedy in the appropriate venue.

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

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: May 31, 2023