

## **Residential Tenancies Tribunal**

Application 2025-0263-NL& 2025-0345-NL

Pamela Pennell  
Adjudicator

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### **Introduction**

1. Hearing was called at 9:02 a.m. on 26-May-2025.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", attended by teleconference.
3. The respondent and counter applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.

### **Preliminary Matters**

4. During the preliminary stages of the hearing whereby the issue of jurisdiction has to be determined, it was found that this tribunal had to adjudicate on its jurisdiction before proceeding with the hearing.

### **Issues before the Tribunal**

- The tribunal is required to adjudicate on its jurisdiction.

### **Legislation and Policy**

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 2: Definitions. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy*: Section 2-4: Deposits, payments and fees.

### **Issue # 1: Jurisdiction**

#### **Analysis**

7. Section 2 of the *Residential Tenancies Act, 2018* states:

#### **Definitions**

2 (m). In this Act, "tenant" includes

- (a) a person who is entitled to use or occupy a residential premises under a rental agreement,
- (b) a person other than a landlord who enters into a rental agreement for the purpose of renting a residential premises for the use or occupation by another person and
- (c) the assigns and personal representatives of a person referred to in subparagraph (i) or (ii).

8. Section 2-4 of the *Residential Tenancies Policy* states:

### **Deposits, Payments and Fees**

***Holding Deposit:*** an amount of money received by a landlord from a prospective tenant before a rental agreement is entered into. A tenant may pay a holding deposit while deciding whether to accept the rental premises. Money or other value paid to hold the rental unit before a decision to accept or deny the tenant's application has been made by the landlord. Deposits outside the rental agreement do not come under the jurisdiction of the *Residential Tenancies Act*.

9. In accordance with Section 2 (m) of the Act as stated above, a tenant is a person who is entitled to use or occupy a residential premises under a rental agreement and in this situation, a rental agreement was never entered into and as such the applicant was never a tenant. Also, in accordance with Section 2-4 of the *Policy* as stated above, I find that the non-refundable holding deposit paid on 7-March-2025 does not fall under the jurisdiction of the *Residential Tenancies Act, 2018*.

### **Decision**

10. The claim does not fall under the jurisdiction of the *Residential Tenancies Act, 2018*.

May 28, 2025

Date

Pamela Pennell, Adjudicator  
Residential Tenancies Office