

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a notice to end tenancy for the landlord's use of property.

Preliminary Issues

At the onset of the hearing the legal council for the tenant advised that the parties were together after meeting this morning for mediation, and are now requesting an adjournment to allow more time to prepare their submissions.

The issue of jurisdiction was raised based on the documentary evidence supplied by the tenant, whereby he advised that he has occupied the residence in question since 1992 as a common law spouse of the owner and not as a tenant. The owner passed away in February 2008.

Council for the tenant confirmed that while occupying the subject property the tenant shared kitchen and bathroom facilities with the owner.

Analysis

Section 4(C) of the *Residential Tenancy Act* states that, among other things, the *Act* does not apply to living accommodation "in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation". For that reason, I declined to hear this matter for want of jurisdiction.

Conclusion

I HEREBY DISMISS the application, for want of jurisdiction, and the applicant is advised to seek out and make application with the appropriate court.

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: April 27, 2009.

Dispute Resolution Officer