



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OLC, FF

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

The tenant is applying for an order to have the landlord comply with the act, regulation, or tenancy agreement.

### Preliminary matter

Before beginning the hearing I first established who the actual landlord is in this case, and it is my finding that the landlord is \_\_\_\_\_. \_\_\_\_\_ & \_\_\_\_\_, are not the applicants landlords, and therefore I have removed them as respondents in this matter.

## Background and Evidence

The applicant stated that:

- When she moved into this rental unit she was reassured by the Strata Corp. that this was a no smoking building.
- After moving into the rental unit she discovered that that is not the case as there are still some people in the building that are smoking.
- Her landlord has acted on her behalf and attempted to get the strata Corp. to enforce their non-smoking bylaw, however to date there are still people in the building that have not complied.
- The units in which the smoking is taking place are not owned by her landlord, and therefore her landlord is unable to take any direct action to stop the smoking.

The applicant is therefore requesting an order that the strata Corp. enforce their no smoking bylaw, as the smoke is detrimental to her health.

## Analysis

The Residential Tenancy Act only has jurisdiction over disputes between the landlords and tenants and issues arising from a tenancy. In this case the dispute is not between the landlord and the tenant and therefore the Residential Tenancy Act does not have jurisdiction over this matter.

I therefore declined jurisdiction over this matter; however the parties then entered into discussions over the smoking issue, and although there was no direct resolution to the problem the parties have agreed to work together to see if the smoking problem can be resolved.



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## Conclusion

I declined jurisdiction over this dispute and will not issue any order against the landlord.

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: February 05, 2010.

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Dispute Resolution Officer