



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPR, MNR, CNR,, OLC, ERP, RP, LRE, LAT, RR, FF

### Introduction

This hearing dealt with cross-applications by the parties addressing a number of issues. Both parties participated in the conference call hearing.

### Issue to be Decided

Is this tenancy within the jurisdiction of the *Residential Tenancy Act* (the “Act”)?

### Background and Evidence

The parties agreed that the rental unit is a room in a residence in which the tenant shares the kitchen and bathroom with other occupants. The parties further agreed that the landlord is the owner of the residence.

The landlord argued that this issue is outside the jurisdiction of the Act because the landlord resides at the residential property and shares the kitchen and bathroom with the tenant.

The tenant argued that the landlord occasionally spends the night but does not maintain a primary residence at the residential property.

### Analysis

Section 4(c) of the Act provides that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of the accommodation. The Act does not specify that the owner has to reside in the residence full time.

I find that the landlord is sharing kitchen and bathroom facilities with the tenant at least part of the time and therefore the Act does not apply to this tenancy.

Conclusion

I decline jurisdiction.

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 21, 2011

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Residential Tenancy Branch