



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the Tenant/Applicant's Application for Dispute Resolution to cancel a notice to end tenancy for cause and to recover the filing fee.

Although the parties have as recently been in dispute resolution, at least twice in March 2011, the Landlord/Respondent, in her submission of a lengthy evidence package, raised the issue of jurisdiction under the Residential Tenancy Act (the "Act").

Due to this issue being raised, at the commencement of the hearing, I asked the parties about the rental unit set up for the purposes of establishing jurisdiction under the Act.

The parties acknowledged that the Landlord/Respondent is the owner of the living accommodation and that the parties share the kitchen facilities.

Issue(s) to be Decided

1. Does the *Residential Tenancy Act* apply to this dispute and do I have jurisdiction to resolve this dispute?

Background and Evidence

The Landlord/Respondent acknowledged that she shared the kitchen facility with the Tenant/Applicant; therefore there was no need to further explore the background and evidence.

Analysis

In order for the Applicant to succeed in this application, the Applicant must show that the *Residential Tenancy Act* applies.

Section 4 (c) of the *Act* states that the *Act* does not apply to living accommodation in which the tenant shares a bathroom or kitchen facilities with the owner of that

accommodation. As a result, I decline to find jurisdiction to resolve this dispute. The parties are at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined 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: June 02, 2011.

Residential Tenancy Branch