



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, CNC, OLC, FF

### Introduction

This conference call hearing was convened in response to two applications for dispute resolution as follows:

By the tenant: as an application for cancellation of a 1 Month Notice to End Tenancy, and to order the landlord to comply with the Act, Regulation or tenancy agreement.

By the landlord: as an application for an Order of Possession for Cause; and to recover the filing fee associated with his application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

Is the tenant entitled to cancellation of the Notice to End Tenancy?

Should the landlord be ordered to comply with the Act?

### Background and Evidence

At the outset, the landlord stated that on August 11<sup>th</sup>, 2011 he received a previous decision from the Residential Tenancy Branch on a similar dispute with a different tenant, in which the Dispute Resolution Officer determined a lack of jurisdiction. In his documentary evidence, the landlord provided a copy of the advertisement which describes the rental unit in this matter as a house with shared kitchen, bath, and laundry. The landlord also provided a tenancy agreement specifying that the accommodations are shared with the landlord and other tenants.

### Analysis

Section 4(c) of the Act states in part 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.

On the landlord's testimony I accept that he shares the kitchen and bathroom facilities with the tenant under the terms of this tenancy, as stated on the agreement.

### Conclusion

Accordingly, I decline to find jurisdiction to resolve this dispute and the parties' application is hereby dismissed in their entirety.

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: August 18, 2011.

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Residential Tenancy Branch