



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### Introduction

This matter proceeded by way of direct request proceeding, pursuant to section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 3, 2012 the landlord served the tenants with the Notice of Direct Request Proceeding by personal service.

The landlord also submitted a signed residential tenancy agreement between the parties. On the tenancy agreement it states "this is an owner occupied residence" [reproduced as written]

### Analysis/Conclusion

Section 4 of the Act states what the Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) **living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,**

**Emphasis added**

As a result, I am unable to determine whether the Act has jurisdiction over the parties in order to proceed with the application.

I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. Based on the foregoing, I find that a conference call hearing is required in order to determine whether the Act has jurisdiction over the parties in order to proceed with the application.

**Notices of Reconvened Hearing are enclosed with this decision for the applicant to serve, with all other required documents, upon the respondent within three (3) days of receiving this decision in accordance with section 88 of the *Act*.**

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing. Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> that explain evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

**Lower Mainland:** 604-660-1020

**Victoria:** 250-387-1602

**Elsewhere in BC:** 1-800-665-8779

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: July 04, 2012.

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Residential Tenancy Branch