

## **DECISION**

Dispute Codes      CNR, FF

This is an application filed by the Tenant to cancel a notice to end tenancy issued for unpaid rent or utilities and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The Landlord has confirmed receiving the notice of hearing and evidence package of the Tenants. The Landlord has not submitted any documentary evidence. As both parties have attended and have confirmed receipt of the notice of hearing and submitted evidence, I am satisfied that both parties have been properly served.

At the beginning of the hearing, both parties confirmed that there was no Landlord Tenancy Relationship between the two parties. The Tenants live in the house with one owner, W.W.C.(Tenant's Son) who is part owner of the house with the named Landlord, S.Y.W. W.W.C., states that the named Tenants are his family and live with him. The owner, S.Y.W. confirmed that the 10 day notice to end tenancy for unpaid rent was issued in error and has withdrawn it. As the notice is withdrawn, No further action is required.

Residential Tenancy Act Section 4 states,

### **What this Act does not apply to**

#### **4 This Act does not apply to**

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

In this situation the Act does not apply. It is clear based upon both parties evidence that a business relationship between W.W.C. and S.Y.W. exists. The named applicants are Tenants of the Landlord/Owner, W.W.C. and as they live with the Owner, the Act does not apply. This Application is dismissed for lack of 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: November 19, 2012.

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Residential Tenancy Branch