



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, MNSD, FF  
CNR

### Introduction

This hearing was scheduled in response to 2 applications: 1) by the landlords for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; and 2) by the tenant for cancellation of a notice to end tenancy for unpaid rent. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

The unit which is the subject of this dispute is a rented room located within a 3 storied house. A total of 3 rooms are rented within the house. The landlords, who are brothers and owners of the house, also live in the house. While the landlords / owners have their own private bathroom facilities, the kitchen facilities which are located on the second level of the house, are shared by the landlords / owners and all tenants in the house.

There is no English version of a written tenancy agreement in evidence for this tenancy which began on or about November 11, 2012. Monthly rent of \$490.00 is due and payable in advance on the first day of each month, and a security deposit of \$245.00 was collected.

As a result of rent for January and February which remained unpaid on February 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 17, 2014. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is February 28, 2014. Subsequently, the tenant filed an application for dispute resolution on February 21, and then amended the

original application on February 24, 2014. The landlord filed an application for dispute resolution on February 25, 2014.

The landlord testified that the tenant is still behind in his payment of rent, whereas the tenant claims he has paid his rent. Presently, the tenant continues to reside in the unit.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 4 of the Act speaks to **What this Act does not apply to**, in part as follows:

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,....

Based on the documentary evidence and the affirmed testimony of the parties, I find that the landlords, who are also the owners of the rental unit and live within the same house as the rental unit, share kitchen facilities with the tenant. Accordingly, pursuant to section 4 of the Act, I find that the circumstances of this dispute fall outside the jurisdiction of the Act. In the result, both applications must be dismissed.

### Conclusion

As the circumstances of the dispute fall outside the jurisdiction of the Act, the applications are both hereby dismissed.

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 15, 2014

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Residential Tenancy Branch

