



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPT

### Introduction

This hearing dealt with an application by the tenant for an order of possession. Both parties attended the hearing and had an opportunity to be heard.

At the outset of the hearing the 'landlord' stated that he was not in fact a landlord and that the Act did not apply to this situation.

### Issue(s) to be Decided

Does the Act apply to this situation?

If so, is the tenant entitled to an order of possession?

### Background and Evidence

The tenant testified that she moved in with her parents in February 2012 and that she paid rent in the amount of \$375.00 per month. While living with her parents, the tenant shared bathroom and kitchen facilities with her parents. The tenant claims she was acting as their caregiver. In September the tenant's mother passed away and her father had to go into a care home. The tenant's brother, who is named on the application as the landlord in this dispute, handled the arrangements regarding the deceased mother and the father's transfer to a care home. The tenant's brother also changed the locks on the residential property.

The 'landlord' brother argues that the Act has no jurisdiction over this matter due to the living arrangements of the parties and that there was never any intention on his parents' *part to create a tenancy relationship. The brother also testified that it was his parents* who were taking care of the 'tenant' rather than the other way round.

### Analysis

Section 4 of the Act sets forth the situations that do not fall under the jurisdiction of the Act. The relevant section of Section 4 says 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,**

.....

Both the 'tenant' and the 'landlord' testified that bathroom and kitchen facilities were shared by the 'tenant' and her parents. As a result, I find that the Act does not, in fact, apply to the present case.

### Conclusion

I dismiss the tenant's application 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 23, 2015

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Residential Tenancy Branch

