



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNDC, O, PSF

### Introduction

This is an application brought by the tenant requesting a monetary order in the amount of \$3000.00 and recovery of the filing fee.

Some documentary evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Both parties were affirmed.

### Issue(s) to be Decided

The first issue I dealt with was whether or not the Residential Tenancy Act has jurisdiction over this tenancy.

### Background and Evidence

The landlord testified that he owns this rental property, and the tenant only rents a room in the lower portion of the rental property, and shares the remainder of the downstairs with another tenant and with himself, the landlord.

The landlord further testified that he maintains a room in the lower portion of the rental unit, and it has always been made clear to all tenants that he, the landlord, has the right to share the kitchen and bathrooms in the lower area.

In support of the landlord's claim the landlord has supplied a letter from the other tenant in the rental property, and in that letter the other tenant states, "There are three bedrooms in the lower level. We two tenants have been living in two separate bedrooms. The other one has been being owned by the landlord. According to our oral tenancy agreement, two tenants and landlord share the living room, bathroom and kitchen."

The applicant/tenant testified that although the landlord does have another bedroom in the lower level of the rental unit, that is only because he has not yet been able to rent it, and there was never any agreement that the landlord would be allowed to share the living room, bathroom and kitchen.

In response to the applicant/tenants testimony the landlord testified that, it is made very clear to all tenants when they applied to rent a room, that they are only renting a room and that the landlord has the right to use the living room, bathroom, and kitchen areas.

### Analysis

Section 4(c) of the Residential Tenancy Act states:

**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 case, it is my finding that the landlord/owner has provided sufficient evidence to show that this is living accommodation in which the tenant shares bathroom or kitchen facilities with the owner.

The landlord has provided direct testimony, and has also provided a signed witness statement, from another tenant in the rental property, that supports the landlords testimony that the landlord has the right to the use of the bathroom and kitchen in the lower level of this rental unit.

The tenant has denied that the landlord shares bathroom or kitchen facilities; however the tenant has provided no evidence in support of his claim.

### Conclusion

It is my finding that the Residential Tenancy Act does not apply to this tenancy and I therefore declined jurisdiction over this dispute.

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 25, 2016

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Residential Tenancy Branch