



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an application for an order of possession and to recover the cost of the fee for the hearing. The matter was scheduled as an in person hearing. Both the Applicant and Respondent appeared at the hearing.

Preliminary and procedural Issue – Jurisdiction

The Applicant and the Respondent live at the same address. The Respondent testified that he has a self-contained suite within the house with the exception that he does not have exclusive use of a bathroom. He testified that he shares the bathroom with family members of the Owner.

The Applicant identified himself as the Owner of the residential property. The Applicant testified that the bathroom has always been shared by the Respondent and the owners who live in the house.

Section 4 of the *Residential Tenancy Act* states that the Act does not apply to:

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

I find that the Respondent in this matter shares a bathroom with the Owner and therefore the Act does not apply to this living situation. I find I do not have jurisdiction to hear this application.

Section 72 of the Act gives me authority to order the repayment of a fee by one party to another party for the application for dispute resolution. I decline granting the repayment of the fee against the Respondent. The Applicant was not successful with his

Application, and in the circumstances I find it would be unfair to order the Respondent to pay the Applicants Application fee.

Conclusion

I decline jurisdiction to hear this matter.

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: September 13, 2016

Residential Tenancy Branch