



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Applicant under the *Residential Tenancy Act* (the “Act”) for an Order of Possession and the recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Applicant, who provided affirmed testimony. The Respondent did not attend. The Applicant was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the Respondent must be served with a copy of the Application and Notice of Hearing. As the Respondent did not attend the hearing, I confirmed service of documents as explained below.

The Applicant testified that the Application and the Notice of Hearing were sent to the Respondent by registered mail on September 15, 2017. As a result, I find that the Respondent was deemed served these documents on September 20, 2017, five days after they were sent by registered mail.

I advised the Applicant that based on the evidence, it appears they share the accommodation, including kitchen and bathroom facilities, with the Respondent, and inquired if they were the owner of the accommodation. The Applicant testified that they are the owner of the accommodation and that when the Respondent moved into their home, the verbal agreement was for the parties to share the accommodation, including the kitchen and bathroom facilities.

Section 4 of the *Act* states that the *Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. Based on section 4 of the *Act*, and in consideration of the documentary evidence and testimony before me, I find that I do not have the jurisdiction to hear this matter. I

therefore decline to hear this matter for lack of jurisdiction. The parties may wish to seek independent legal advice in relation to solving the dispute in 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: November 8, 2017

Residential Tenancy Branch