



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      DRI, LRE, OLC, RR, FFT  
                             AAT, DRI, LRE, OLC, OPT, PSF, FFT

### Introduction

This hearing dealt with two applications submitted by the Applicant filing for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*"). The Applicant's first application, filed on January 23, 2019, requested to dispute a rent increase, to suspend or set conditions on the Landlords' right to enter the rental unit, for an order for the Landlord to comply with the *Act*, to request a rent reduction for repairs, services or facilities agreed to but not supplied, and to recover the filing fee paid for this application. The Applicant's second application, filed on February 5, 2019, requesting an order to allow access to the rental unit for the Tenant or their guests, to dispute a rent increase, to suspend or set conditions on the Landlords' right to enter the rental unit, for an order for the Landlord to comply with the *Act*, for an Order of Possession for the rental unit, for an Order to provide services or facilities required by the tenancy agreement or the *Act*, and to recover the filing fee paid for this application.

The Applicant attended the hearing and was affirmed to be truthful in her testimony. The Applicant was provided with the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

### Preliminary Matter – Jurisdiction

At the outset of the hearing, the Applicant testified that she lived with her brother, in his home, until his death, and that she paid him rent but that they had shared a bathroom and kitchen in the home. The Applicant also testified that they since her brother's death, her niece, as executor of her brother's estate, and her extended family have taken over the home and kicked her out.

When asked the Applicant confirmed that she felt that this was a dispute between family members and that this was a family matter.

### Analysis

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find as follows:

Section 2 of the Act sets out the limitations on my jurisdiction.

**“What this Act applies to**

**2** (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, rental units and other residential property.”

During this hearing, I heard verbal testimony from the Applicant that this living situation had been in a family home, and that she had shared the kitchen and bathroom with brother, who was the owner of the property.

Section 4 of the Act states the following:

**“What this Act does not apply to**

**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,”

I accept the testimony of the Applicant that she had shared the kitchen and bathroom on the property with the owner. Therefore, pursuant to section 4(c) of the *Act*, I find that the *Residential Tenancy Act* does not apply to this matter, and I decline jurisdiction on both applications.

Although the *Residential Tenancy Act* does not apply to this matter, the parties may further pursue this matter through a court of appropriate jurisdiction.

### Conclusion

I decline jurisdiction over both of these applications, as the *Residential Tenancy Act* does not apply to 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: March 8, 2019

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Residential Tenancy Branch