



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC OPC

### **Introduction**

The tenant who was the applicant did not attend this hearing, although I left the teleconference hearing connection open until 9:49 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. on April 11, 2019. The landlord and her advocate attended the hearing and gave sworn testimony. As English is the landlord's second language, she requested the advocate to make submissions and to call her as witness. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord provided evidence that she served a one month Notice to End Tenancy personally and the tenant served the Application for Dispute Resolution on her personally. I find the documents were legally served pursuant to sections 88 and 89 of the *Residential Tenancy Act* (the Act).

The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;
- b) To order the landlord to comply with the Act, Regulations or tenancy agreement; and
- c) To suspend or set conditions on the landlord's right to enter the unit or site.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application? Is the tenant entitled to

orders that the landlord comply with the Act and to have limits set on the landlord's right to enter the unit or site?

**Background and Evidence**

Only the landlord and her advocate attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced October 2018. They explained the situation. The tenant was a son and the landlord was his mother. She was advised by support services in October 2018 that her son had nowhere to live so she took him in. He paid no rent. They shared kitchen facilities.

The situation became increasingly difficult with the son denying access to his mother to various areas of her home, such as laundry facilities. Her lawyer advised her to evict him so she served the One Month Notice to End Tenancy for cause. She subsequently was advised that the Residential Tenancy Branch may not have authority to deal with this as she shared facilities with her son. On consulting her lawyer, he advised her to lock out her son as it was her legal right to deny him access to her home. She did this and her son no longer lives with her. This situation has been very stressful for her.

**Analysis:**

Section 4 (c) of the Act provides that the Act does not apply to "living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation". I find the landlord is the owner of the home in this situation and she shared kitchen facilities with the tenant who is her son. Therefore I find I have no jurisdiction in this matter.

**Conclusion:**

The tenant's Application is dismissed as I have no jurisdiction 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: April 11, 2019

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Residential Tenancy Branch