



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC LRE

### Introduction

This hearing dealt with an application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*; and
- an order to restrict the landlord's right to enter the rental unit, pursuant to section 70 of the *Act*.

Both parties attended the hearing. The respondent confirmed receipt of the applicant's Notice of Dispute Resolution Proceeding package, and the applicant confirmed receipt of the respondent's evidence. The applicant claimed that she had submitted an "Amendment to an Application for Dispute Resolution" form to the Residential Tenancy Branch (RTB) and also served it to the respondent. The respondent denied receipt of the Amendment, and I find no evidence of the Amendment submitted to the RTB or uploaded to the RTB dispute website. As such, I find that the documents for this hearing were sufficiently served for the purposes of this hearing in accordance with the *Act*, with the exception of the applicant's Amendment application, which has not been considered at this hearing.

### Preliminary Issue – Jurisdiction

It was undisputed that the respondent and his father purchased the house, which forms the dispute address for this matter, in 2017.

Both parties confirmed that they had lived together in the basement suite of the dispute address, off and on, from September 2017 until the deterioration of their relationship in July 2019 when the respondent decided to move out of the dispute address. The basement suite consisted of three bedrooms, two bathrooms and one kitchen, which was shared by both parties.

Section 4(c) of the *Act* reads in part as follows:

*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 matter, the applicant shared the kitchen with the respondent who was the owner of the accommodation.

As such, I advised the parties that given the circumstances and based on the testimony before me, I find that pursuant to section 4 of the *Act*, the *Act* does not apply to this living arrangement. I therefore declined to hear the matter as I have no jurisdiction to render a decision in this matter.

### Conclusion

I decline to hear this matter as I have no jurisdiction to consider this application.

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 21, 2019

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Residential Tenancy Branch