



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

CNC FFT LRE OLC

### Introduction

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

- cancellation of a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”), pursuant to section 47;
- an order that conditions be set on the landlord’s right to enter the rental unit pursuant to section 70;
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee from the landlord pursuant to section 72.

The applicant did not attend this hearing which lasted approximately 15 minutes. The respondent appeared with their counsel and were provided a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### Issue(s) to be Decided

Do I have jurisdiction under the Act to consider the application for dispute resolution?  
If so, is the applicant entitled to any of the relief sought?

### Background and Evidence

The respondent provided undisputed evidence as the applicant did not attend the hearing. The respondent submits that the living accommodations do not fall under the jurisdiction of the *Act*.

The respondent explained that the applicant rents and has exclusive use of a bedroom in a detached home owned and occupied by the respondent and their family. The parties share the bathrooms and kitchen spaces of the building.

### Analysis

Section 4(c) of the *Act* provides that:

**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,

Based on the undisputed evidence of the parties I find that the applicant had free access to the bathroom and kitchen facilities in the respondent's area of the property. I find that this was an open invitation to share the facilities and not limited to those instances when the respondent specifically allowed access. I further accept the evidence that the respondent and their family were free to utilize the facilities located in all areas of the building and did so on a regular basis.

I find that this was a living accommodation where the bathroom and kitchen facilities were shared between the applicant and the owner of the property. As such, I find that the *Act* does not apply to this living arrangement between the parties. I therefore 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: January 13, 2020