



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing was convened as a result of the Owner's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on March 2, 2020. The Owner applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The property owner attended the hearing. The occupant did not attend the hearing. The owner stated that he served the occupant with the Notice of Hearing and evidence in person on February 4, 2020. The owner brought a witness, and provided a proof of service. Pursuant to section 89 and 90 of the Act, I find the occupant was served with this package on February 4, 2020, the day he was personally served.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision. Not all evidence that was submitted will be summarized. Only evidence which underpins my decision will be referenced.

### Preliminary and Procedural Matters

During the hearing, it became apparent that jurisdiction may be an issue in this application. As such, I must determine whether or not I have jurisdiction to hear this application. Below is my analysis on the matter.

The owner attended the hearing and explained that this rental unit consists of 3 bedrooms, two of which are occupied by the occupant, as listed on this application (J.S.). The owner confirmed that he occupies the bedroom in the basement most of the

time, and he also confirmed that he does not have a kitchen or bathroom of his own in the basement area. The owner confirmed that that only washroom and kitchen in the house is on the main floor, and he does not have facilities of his own in the basement. The owner explained that the occupant upstairs is more of less his “roommate” because it is not a distinct or self contained from his space. I turn to the following portion of the Act:

**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

Regardless of how much the owner actually uses the kitchen and bathroom upstairs, I find it is more likely than not that, legally, he shares these facilities with the person renting the two bedrooms upstairs as he does not have kitchen or bathroom facilities of his own and he has full access to that space as part of his living arrangements. Since the owner shares a kitchen and bathroom with the other occupants, and he does not live in a distinct unit, I find the Act does not apply, and I decline jurisdiction on this matter. I dismiss the application, in full, without leave to reapply.

Conclusion

I decline jurisdiction on this matter. The application is dismissed in full without leave to reapply.

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 02, 2020

---

Residential Tenancy Branch