



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes PSF, LRE, OLC

Introduction

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

- an Order that the respondent's right to enter be suspended or restricted, pursuant to section 70;
- an Order directing the respondent to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62; and
- an Order for the respondent to provide services or facilities required by the tenancy agreement or law, pursuant to section 65.

Both parties agree that the applicant's application for dispute resolution was served on the respondent via registered mail. I find that the respondent was served in accordance with section 89 of the *Act*.

Preliminary Issue- Jurisdiction

Section 4(c) of the *Act* states that this *Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Both parties agree that the subject rental property is a five-bedroom house with one kitchen. Both parties agree that the respondent keeps a bedroom at the subject rental property. The respondent testified that he spends a few nights per week at his mother's home and a few nights per week at the subject rental property. The applicant testified that the respondent has not regularly lived at the subject rental property for the past 7-8 months but has attended in the subject rental property to cause him trouble.

I find, on a balance of probabilities, that the respondent resides, at least part time, at the subject rental property as he keeps a bedroom at the subject rental property and regularly attends at the subject rental property. I find that the parties share a kitchen when the respondent resides at the subject rental property. Therefore, pursuant to section 4(c) of the *Act*, I find that I do not have jurisdiction to hear this matter.

Conclusion

The applicant's application is dismissed 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: July 20, 2020

Residential Tenancy Branch