



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, CNC, MNDC, RP, PSF, LRE, FF

### Introduction

On September 1, 2020, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a One Month Notice to End Tenancy for Cause (“the One Month Notice”) and seeking to cancel a 10 Day Notice for Unpaid Rent or Utilities (“the 10 Day Notice”). The Tenant also applied for the following relief:

- for an order for the Landlord to make repairs to the unit;
- to suspend or set conditions on the Landlords right of entry into the unit
- for money owed or compensation for damage or loss
- for the Landlord to provide services or facilities required by law
- to recover the filing fee for the Application.

The Landlords and Tenant appeared at the hearing. The hearing process was explained, and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence in written and documentary form and make submissions to me. The Landlords and Tenant confirmed that they have exchanged the documentary evidence before me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

### Jurisdiction

The Landlord testified that the tenancy began on April 1, 2017 and is on a month to month basis. The Tenant testified that the tenancy arrangement began in June 2017. The Landlord testified that a security deposit was not required or paid as part of the arrangement.

The Landlords testified that the parties reached an agreement that the Tenant could temporarily live in a studio room attached to the garage on the residential property. The Landlord testified that at the start of the arrangement a specific amount of rent was not agreed upon and the Tenant could perform work in exchange for living there.

The Landlords' testified that the studio room has a toilet, but no shower or bath, and has no kitchen. The Landlords testified that the living arrangement gave the Tenant access to enter the Landlords' home and share the kitchen and bathroom facilities to cook and shower.

The Landlords testified that this living arrangement changed in February 2019 when the Landlords and Tenant agreed that the Tenant was required to pay rent of \$800.00 each month. The agreement still included access for the Tenant to use the Landlords' kitchen and bathroom and permitted the Tenant to perform work for the Landlord towards a reduction in monthly rent.

The Landlords testified that recently there was breakdown in their relationship with the Tenant and he has now created his own kitchen area in the studio room. The Landlord testified that the room is not wired for a kitchen and is not plumbed for a bathroom.

The Landlord testified that the parties have not amended the terms and conditions of their tenancy agreement that permits the Tenant to use the Landlords kitchen and bathroom. The Landlord testified that he has now placed restrictions on the Tenants entry.

The Landlord was asked whether he believes the living arrangement falls under the jurisdiction of the Act and he replied that he does not believe that it does. He testified that the Tenant was seeking a rent supplement from the government, so he issued the notice to end tenancy in case the Act applies to the arrangement.

The Tenant testified that he considers the studio room to be a carriage house. He testified that he has a toilet, a fridge, a microwave and access to laundry.

The Tenant confirmed that the tenancy arrangement included the term and condition that he has shared use of the Landlords' kitchen and bathroom. He testified that those facilities were mostly used when he was working for the Landlord. He estimated that he used those facilities 10 -15% of the time. He testified that he used the kitchen to prepare approximately three meals per week. He also testified that he would occasionally sleep in the Landlords' master suite when the Landlords were away.

Section 4 of the Act identifies what the Act does not apply to. Section 4 (c) provides that the 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 testimony provided by the Landlords and Tenant, I find that the terms of the tenancy arrangement permit the Tenant to use the Landlords kitchen and bathroom. While the Tenant may have decided to restrict his use of those facilities, and while the Landlord may have placed some restrictions on the Tenants access to these facilities, I find that the parties have not amended the terms of the original tenancy arrangement.

I find that the Tenant shares bathroom and kitchen facilities with the owner of the home. I find that the living arrangement is more of a room-mate arrangement than a residential tenancy under the Act.

Accordingly, I find that the Act does not apply to this living arrangement and I decline jurisdiction to resolve the dispute.

The Tenant's application is dismissed in its entirety.

### Conclusion

The Tenant shares a kitchen and bathroom with the Landlords. I find that the living arrangement is more of a room-mate arrangement than a residential tenancy under the Act.

Accordingly, I find that the Act does not apply to this living arrangement and I decline jurisdiction to resolve the dispute.

The Tenant's application is dismissed in its entirety.

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: October 21, 2020

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Residential Tenancy Branch