



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, PSF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Applicants on January 09, 2021 (the “Application”). The Applicants applied as follows:

- To dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”)
- For an order that the Landlord provide services or facilities required by the tenancy agreement or law

The Respondent appeared at the hearing with L.L. The Applicants did not appear. I waited 10 minutes to allow the Applicants to call into the hearing; however, they did not do so.

L.L. advised that the Applicants vacated the rental unit in February of 2021 and therefore the Respondent is not seeking an Order of Possession based on the Notice.

L.L. further advised that the Applicants only rented rooms from the Respondent and that the Applicants and Respondent shared bathroom and/or kitchen facilities and therefore the RTB does not have jurisdiction over this matter pursuant to section 4 of the *Residential Tenancy Act* (the “Act”). L.L. confirmed that the Respondent is the owner of the house.

Rule 7.3 of the Rules of Procedure states:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Section 4 of the *Act* states:

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

I dismiss the Application without leave to re-apply for the following reasons.

The Applicants failed to attend the hearing and provide a basis for the Application and therefore the Application is dismissed without leave to re-apply.

I accept the undisputed statements of L.L. that the Applicants shared bathroom and/or kitchen facilities with the Respondent who is the owner of the house. Therefore, I find pursuant to section 4(c) of the *Act* that the *Act* does not apply and the RTB would not have jurisdiction to decide this matter in any event.

Section 55(1) of the *Act* requires an arbitrator to issue an Order of Possession when a tenant applies to dispute a notice to end tenancy, the application is dismissed or the notice is upheld and the notice complies with section 52 of the *Act*.

I decline to issue an Order of Possession based on the Notice for two reasons. First, the Respondent is not seeking an Order of Possession because the Applicants have vacated the rental unit. Second, I accept that the *Act* does not apply and the RTB does not have jurisdiction to decide this matter and therefore I could not issue an Order of Possession pursuant to section 55 of the *Act* in any event.

### Conclusion

The Application is dismissed without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: April 09, 2021

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Residential Tenancy Branch