



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened as a result of the Applicant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") to cancel a One Month Notice to End Tenancy for Cause dated May 28, 2021, and to recover the \$100.00 cost of his Application filing fee.

The Applicant, his counsel, H.F. ("Counsel"), and the Respondent appeared at the teleconference hearing and testified. I explained the hearing process to the Parties and gave them an opportunity to ask questions.

The Parties confirmed their email addresses early in the hearing, and also confirmed their understanding that the Decision would be emailed to both Parties.

At the onset of the hearing, the Respondent advised that she is the landlord of the residential property and that the Applicant rents a room in the upper level of the house, while she and her son live in a suite in the basement. The Respondent testified that she shares a kitchen with the Applicant, as her suite does not have a full kitchen – it has no oven.

Counsel argued that the Respondent does not have to use the kitchen upstairs, that she advertises the lower suite as having a kitchen. Counsel also said that the Respondent uses the upstairs kitchen in order to avoid having her residential property fall under the jurisdiction of the Act. I appreciate Counsel's submissions; however, regardless of any ulterior motives the Respondent may have, the evidence before me is that the Respondent and the Applicant share a kitchen in the residential property.

In the hearing, I advised the Parties that pursuant to section 4(c) of the Act, I do not have the jurisdiction to decide this matter on their behalf. Section 4(c) states that the Act *does not apply* to "...living accommodation in which the tenant shares bathroom or

kitchen facilities with the owner of that accommodation". This accommodation is outside of the Act, and therefore, I have no jurisdiction to consider this matter.

The Applicant must bear the cost of his own filing fee, as the Act does not apply to this situation.

I noted in the hearing that the Parties may wish to take this dispute to the Civil Resolution Tribunal for resolution. The CRT's telephone number is: 1-844-322-2292, and their website is: <https://civilresolutionbc.ca/>

Conclusion

I decline to rule on this matter, as I have no jurisdiction to consider this Application. The Parties were referred to the Civil Resolution Tribunal for assistance in resolving their dispute.

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 05, 2021

Residential Tenancy Branch