



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNR, CNC**

### Introduction

The applicant filed an application seeking orders under the *Residential Tenancy Act* (the “Act”) for:

- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 46 and 55 and
- An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

The applicant did not attend the hearing although I left the teleconference connection open throughout the hearing which commenced at 1:30 p.m. and ended at approximately 1:45 p.m. The respondent attended the hearing and gave affirmed testimony. The respondent acknowledged being served with the applicant’s Notice of Dispute Resolution Proceedings and stated he had no concerns with timely service of documents.

### Preliminary Issue

The respondent gave the following undisputed testimony. He is the owner of the subject unit and has owned it since May of 2015. A copy of the purchase and sale agreement was provided as evidence. The respondent testified that the applicant is his brother and together they share a kitchen and all 3 bathrooms of the residential property.

Section 4 of the *Residential Tenancy Act* specifies what the Act does not apply to. Section 4(c) indicates the *Residential Tenancy Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

I find that the living accommodation in this case fall under the category as specified by section 4(c) of the *Act*. Consequently, I find the *Residential Tenancy Act* does not apply.

Conclusion

I find that the *Residential Tenancy Act* does not apply to the living accommodation and a delegate of the Director of the Residential Tenancy Branch does not have the jurisdiction or authority to hear this matter pursuant to sections 4(c).

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: August 19, 2022

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Residential Tenancy Branch