



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Page: 1

DECISION

Dispute Codes CNC, DRI-ARI-C, OLC

Introduction

The applicant filed an application for dispute resolution and sought various relief under the *Residential Tenancy Act* (the "Act").

Preliminary Issue: Jurisdiction

The applicant was both a subtenant of a tenant (referred to as the "Third Party") and a tenant of a subtenant (J.S.), who was a subtenant of the tenant. The tenant in turn had a tenancy agreement with the landlord, who was the respondent in this dispute. However, the applicant is seeking compensation from the Third Party (and possibly from the subtenant) and not from the respondent.

The applicant had entered into a subtenant agreement with both the tenant and the tenant's subtenant. The applicant never moved into the property, but if she had, she would have shared the kitchen with the subtenant.

According to section 4(c) of the Act, living accommodation is excluded from the Act if the tenant (that is, the applicant) shares bathroom or kitchen facilities with the landlord (that is, the subtenant) of the accommodation. Additionally, as described in more detail in *Residential Tenancy Policy Guideline 19*, this was not a situation where the tenant fully sublet the rental unit to the subtenant or the sub-subtenant.

Instead, the tenant sublet a room or rooms to various sub- and sub-subtenants. These types of arrangements are known as occupant or roommate living arrangements and fall outside the jurisdiction of the Act. As noted during the hearing, only a dispute between the respondent and the Third Party tenant would fall under the jurisdiction of the Act.

For these reasons, it is my finding that any legal dispute between the applicant and the Third Party falls outside the jurisdiction of the *Residential Tenancy Act* but is within the jurisdiction of the Civil Resolution Tribunal.

A copy of this Decision may be submitted with any application made by the applicant to the Civil Resolution Tribunal to confirm that this dispute does not fall under the Residential Tenancy Branch's jurisdiction.

The applicant's application is hereby dismissed for want of jurisdiction.

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: January 3, 2023

Residential Tenancy Branch