



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes:

CNR

### Introduction

This hearing was scheduled in response to the Applicant's Application for Dispute Resolution, in which the Applicant has made application to set aside a Notice to End Tenancy for Unpaid Rent.

The Respondent appeared at the start of the hearing at 1400 hours on November 23, 2009 but by the time the hearing concluded at 1411 hours, the Applicant had not appeared.

At the time of the scheduled hearing Counsel for the Landlord requested an Order of Possession, pursuant to section 55(1) of the *Residential Tenancy Act (Act)*

### Preliminary Issue

Before considering the merits of the Respondent's request for an Order of Possession I must determine whether the Applicant's Application for Dispute Resolution is a matter that can be resolved under the *Act*. The legislation does not confer authority to consider disputes between all types of relationships between parties. Only relationships between landlords and tenants can be determined under the *Act*.

The Respondent submitted a copy of a lease agreement between the Respondent and the Applicant that was signed and dated by both parties on June 05, 2009. The Respondent submitted an Option Agreement in relation to this property that was also signed and dated by both parties on June 05, 2009.

The Option Agreement stipulates, in part, that the "Tenant" has the right to purchase the rental unit during the next twenty-four months for the price of \$862, 500.00; that the "Tenant" paid a non-refundable deposit of \$5,000.00; that the \$5,000.00 deposit will be applied to the purchase of the property; that the \$5,000.00 deposit will not be returned if the "Tenant" does not purchase the property; and that \$650.00 of each monthly rent

payment will be applied to the purchase of the property in the event that the "Tenant" exercises his option to purchase the property.

Even though the parties call a contract a lease it is not necessarily a contract that can be determined under this legislation. Jurisdiction must be refused, in my opinion, if the contract grants a tenant an interest in the property that goes beyond exclusive possession and occupation of the rental unit.

I find that the agreement entered into by these parties transferred an interest in the land which goes beyond the relationship of a landlord and tenant. The Option Agreement immediately granted the Applicant an interest in the equity of the property that is beyond the scope of the *Act*. I find, therefore, that I do not have jurisdiction in this matter.

### Conclusion

As the Applicant's Application is outside the jurisdiction of the *Act*, I hereby decline to consider the merits of this matter. Either party has the option of resolving this dispute through the Supreme Court of British Columbia.

Dated: November 25, 2009.

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Dispute Resolution Officer