

DECISION

Dispute Codes: **Landlord:** OPR, MNR, MNSD and FF

Tenant: CNR, O and FF

Introduction

These applications were brought by both the landlord and the tenant.

By application of May 11 2010, the landlord seeks an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on May 5, 2010. The landlord also seeks a Monetary Order for the unpaid rent, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

By application of May 6, 2010, the tenant seeks to have the Notice set aside, recovery of the filing fee, and a declaration that the contract between the parties is not a residential tenancy.

Issues to be Decided

These applications first require a decision on whether the contract in question is a residential tenancy, and if jurisdiction is found, whether the Notice to End should be set aside or upheld. If it is upheld, it remains to be decided if the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent.

Background and Evidence

This agreement came into effect on February 1, 2009 as an Option to Purchase or Lease to Purchase. According to the landlord, the agreement required the tenant to pay rent of \$3,000 per month.

The only evidence provided by both parties was a copy of the Notice to End Tenancy and neither submitted a copy of the agreement in dispute into evidence,

The tenant argues that the lease to purchase is outside the jurisdiction of the *Act*. The landlord takes the position that the Option to Purchase has lapsed and that the occupancy has defaulted to a residential tenancy.

Analysis

In view of the fact that I do not have a copy of the agreement, I must decline to make a finding on the question of jurisdiction. Therefore, I am not in a position to adjudicate either application.

Conclusion

Both applications are dismissed with leave to reapply. I have enclosed an information sheet advising on the requirements for evidence submissions for both parties.

June 23, 2010