

DECISION

Dispute Codes OPR MNR MND MNDC FF
MNR FF

Introduction

This hearing dealt with applications filed by both parties to the dispute seeking remedy under the *Residential Tenancy Act*.

Issues(s) to be Decided

Are either party entitled to an Order of Possession under either section 54 or 55 of the *Residential Tenancy Act*?

Are either party entitled to a Monetary Order under section 67 of the *Residential Tenancy Act*?

Background and Evidence

The Property Manager confirmed the parties entered into an agreement for sale of the subject property on May 15, 2010 as supported by the copy of this agreement which was submitted in their evidence. She also confirmed the parties entered into a written tenancy agreement on May 17, 2010 whereby the occupants agreed to pay \$3,361.00 per month, an amount that included property taxes and interest and that \$1,000.00 of this amount would be put towards the principal purchase price of the property.

Analysis

The definition of a tenancy agreement under part 1 of the Act means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting

possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit. It does not matter if the parties have called their agreement a tenancy agreement rather if any amount of the money that changes hands is part of the purchase price of the property, a tenancy agreement has not been entered into and the *Residential Tenancy Act* does not apply.

In this case the evidence supports the two agreements entered into by the parties on May 15, 2010 and May 17, 2010 respectively, are substantially linked to the sale and purchase of the subject property. Therefore, the *Residential Tenancy Act* does not apply and I decline jurisdiction in this matter.

Conclusion

I HEREBY DISMISS these matters 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 *Residential Tenancy Act*.

Dated: September 29, 2010.

Dispute Resolution Officer