



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, MNDC, AS, FF

Introduction

This hearing dealt with an application from the tenant for a Notice to End Tenancy for unpaid rent, a monetary order for damage or loss, to allow the tenant to assign or sublet and recovery of the filing fee. Both parties participated in the conference call hearing.

Preliminary Issue

Before considering the merits of this Application for Dispute Resolution I must determine whether I have jurisdiction in this matter.

Summary of Background and Evidence

The applicant and respondent have a Purchase Option Agreement in place and a portion of each month's payment goes towards the purchase price of the property. This Option Agreement also reflects that there have been 2 non-refundable deposits totalling \$10,000.00, towards the purchase of the property.

Residential Tenancy Policy Guideline

27. Jurisdiction

5. TRANSFER OF AN OWNERSHIP INTEREST

If the relationship between the parties is that of seller and purchaser of real estate, the Legislation would not apply as the parties have not entered into a "Tenancy Agreement" as defined in section 1 of the Acts. It does not matter if the parties have called the agreement a tenancy agreement. If the monies that are changing hands are part of the purchase price, a tenancy agreement has not been entered into.



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Conclusion

I hereby dismiss the Tenant's Application for Dispute Resolution, as his claim does not fall under the *Act*. The Tenant has the option of pursuing his claim through the Supreme Court of British Columbia.

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: October 28, 2010

Dispute Resolution Officer