



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with an application by the landlord to obtain an order of possession for unpaid rent and a monetary order for unpaid rent. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

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. The agreement shows that \$30,000.00 is to be paid as a purchase option towards the purchase of the property and monies have been paid to that end.

The landlord's agent testified that the parties now being named as tenants in this application are in fact the purchasers bound the Purchase Option Agreement. The landlord's agent stated that the purchasers have paid the seller money that is part of this Purchase Option Agreement. As the purchasers are now in default with this agreement the seller is attempting to seek relief through the Residential Tenancy Act.

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



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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.

Conclusion

I hereby dismiss the Landlord'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: November 10, 2010

Dispute Resolution Officer