



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND; MNR; MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for damage to the rental unit; compensation for loss of rent; to apply the security deposit towards partial satisfaction of his monetary award; and to recover the cost of the filing fee from the Tenants.

Both parties signed into the Hearing and provided affirmed testimony

Preliminary Matter

At the outset of the Hearing, the Tenants testified that they had entered into a tenancy agreement with the Landlord and also entered into a rent-to-own agreement at the same time. Under the agreements, the Tenants paid a down payment of \$5,000.00 and a security deposit of \$600.00. Monthly rent was \$1,200.00, but they paid a total of \$850.00 biweekly to the Landlord. The monthly rent was deducted off the \$850.00 biweekly payments and the remainder was to be put towards purchasing the rental unit. The Tenants testified that they later discovered the Landlord did not own the rental unit and that they were actually subtenants.

The Landlord stated that nevertheless, the Tenants had signed a tenancy agreement and he sought damages under the tenancy agreement.

Analysis

The Landlord did not dispute that the parties had entered into a rent-to-purchase agreement at the beginning of the tenancy. The Landlord wrote on his Application for Dispute Resolution, "The tenant's refused to pay August rent and vacated the premises despite having an option to purchase." (reproduced as written)

I accept the Tenants' testimony that they entered into the tenancy agreement and the right to purchase agreement at the same time. Monies were paid towards the purchase of the rental unit (i.e. a \$5,000.00 deposit and monies in excess of the \$1,200.00 rent payment each month). I find that the Tenants had in interest in the rental unit greater than the right of possession and therefore I decline jurisdiction.

The Landlord's application is dismissed without leave to reapply.

Conclusion

The Landlord's application is dismissed without leave to reapply.

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: January 26, 2011.
