



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

INTERIM DECISION

Dispute Codes AS, CNC, CNL, CNR, LAT, MNDC, MNR, O, OPT, RR, FF

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause, landlord's use of property and unpaid rent, to allow a tenant to assign or sublet, to allow the tenant to change the locks, money owed or compensation for damage or loss, cost of emergency repairs, obtain an order of possession for the unit, allow a tenant to reduce rent for repairs, other 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 signed Purchase Option Agreement dated August 31, 2010 in place and the buyer paid a cash deposit to the seller which formed part of the purchase price per the Contract of Purchase and Sale.

Law

Residential Tenancy Policy Guideline 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.

Similarly, a tenancy agreement is a transfer of an interest in land and buildings, or a license. The interest that is transferred, under section 1 of the Acts, is the right to

possession of the residential premises. If the tenant takes an interest in the land and buildings which is higher than the right to possession, such as part ownership of the premises, then a tenancy agreement may not have been entered into. In such a case the arbitrator may again decline jurisdiction because the Acts would not apply.

Conclusion

I hereby dismiss the Tenant's Application for Dispute Resolution, as her claim does not fall under the *Act*. The Tenant has the option of pursuing her 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: March 22, 2011.

Residential Tenancy Branch