



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNDC

### Introduction

This matter dealt with an application by the Tenants to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and for compensation for damage or loss under the Act or tenancy agreement.

### Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are the Tenants entitled to compensation?

### Background and Evidence

The Parties agree that in March of 2009, the ownership of the rental property was transferred from the Tenants to the Landlords. The Landlords claim that all purchase funds were paid at that time and that the Parties have a tenancy agreement wherein the Tenants pay \$1,200.00 rent each month. The Landlords said the Tenants did not pay rent for April 2011 and did not pay rent for May 2011 when it was due and as a result, on or about May 11, 2011 the Landlords served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. Neither party provided a copy of the Notice as evidence at the hearing.

The Tenants claim that no funds were transferred to them when the ownership of the property transferred. The Tenants claim that they have a verbal agreement with the Landlords that the Tenants would make the mortgage payments of \$1,850.00 each month on behalf of the Landlords. The Tenants admitted that there is no written agreement to that effect. The Tenants admitted that they did not make a mortgage payment in April 2011 or June 2011 but claim that is because the Landlords have failed to pay them an agreed deposit of \$20,000.00.

### Analysis

Section 2 of the Act says that the Act applies only to tenancy agreements. RTB Policy Guideline #27 states at p. 4 as follows:

“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.”

Given the contradictory evidence of the Parties as to whether there is a tenancy agreement in place or whether their living arrangement is based on an agreement to purchase the property, I find that there is insufficient evidence to conclude that there is a tenancy agreement in place. Consequently I find that there is no jurisdiction to hear this matter and the Parties will likely have to pursue it in the Supreme Court of British Columbia.

### Conclusion

The Tenants’ application is dismissed without leave to reapply due to a lack 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: June 07, 2011.

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Residential Tenancy Branch