



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### **Dispute Codes:**

OPR; MNR; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

### **Preliminary Matter**

At the Hearing on April 15, 2011, the Tenant testified that he had an interest in the rental property and that he and his counsel were in the process of filing documents in the Supreme Court. He stated that he and one of the other owners of the rental unit are estranged spouses. The Landlord disputed that the Tenant had any ownership interest in the rental unit. I advised the parties that I did not have the authority to deal with a dispute that is substantially linked to a matter before the Supreme Court. This matter was adjourned to May 13, 2011, in order to allow the Tenant to provide me with documentary evidence that this matter is before the Supreme Court.

At the Hearing on May 13, 2011, the Tenant testified that he has not yet filed in the Supreme Court because his counsel is with the Justice Access Center and there was a delay in completing the forms.

Contrary to the Landlord's initial testimony on April 15, 2011, the Landlord testified that the Tenant had paid money towards a mortgage and property taxes on the subject rental unit.

Residential Tenancy Policy Guideline 27 provides that a tenancy agreement is a transfer of interest in land and buildings, or a license. The interest that is transferred is the right to possession of the rental unit. By making mortgage payments and paying taxes, I find that the Tenant may have an interest in the land and buildings that is higher than the right to possession. This is a determination that is solely within the jurisdiction of the Supreme Court of British Columbia and therefore I decline jurisdiction over this dispute.

### **Conclusion**

I decline jurisdiction over this matter.

This interim 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: April 15, 2011.

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Residential Tenancy Branch