



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution to obtain an Order of Possession for unpaid rent and for a Monetary Order for unpaid rent or utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Respondents to these applications.

Issue(s) to be Decided

1. Does this matter fall within the jurisdiction of the *Residential Tenancy Act*?

Background and Evidence

The Applicant advised that on July 11, 2009, the parties entered in to a fixed term lease agreement and an option to purchase the property. The respondents paid her \$25,000.00 on July 11, 2009 as a down payment to purchase the subject property. \$500.00 from each monthly rent payment was to be credited towards the purchase price of the home.

Analysis

The definition of a tenancy agreement under part 1 of the Act means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas, services and facilities, and includes a licence to occupy a rental unit.

In the case of a tenancy agreement with a right to purchase, the issue of jurisdiction will turn on the construction of the agreement. If monies which were paid were not paid towards the purchase price, then the Act may apply and the *Residential Tenancy Branch* may assume jurisdiction. Generally speaking, the Act applies until the relationship of the parties has changed from landlord and tenant to seller and purchaser.

In this case I find the two agreements entered into by the parties on July 11, 2009, are substantially linked to the sale and purchase of the subject property. The Respondents paid the Applicant \$25,000.00 on July 1, 2009 as the down payment to purchase the property at which time the relationship of the parties became seller and purchaser.

Based on the aforementioned I find the *Residential Tenancy Act* does not apply and I decline jurisdiction in this matter.

Conclusion

I HEREBY DISMISS this application for want 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: September 06, 2011.

Residential Tenancy Branch