



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD FF

### Introduction

This hearing dealt with an application filed by the Applicant to obtain a Monetary Order to retain the security deposit and to recover the filing fee pursuant to sections 67 and 72 of the *Residential Tenancy Act*.

### Issues(s) to be Decided

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

### Background and Evidence

I heard undisputed testimony that the parties entered into an agreement for sale of the subject property effective April 1, 2009 whereby the occupant agreed to pay \$780.00 per month, an amount that included \$30.00 per month that would go towards property taxes with the balance of \$750.00 per month to go towards the purchase of the property. The \$780.00 payments were to be paid from April 1, 2009 to April 30, 2011 and on May 1, 2011 the sum of \$18,000.00 (24 x \$750.00) would be deducted from the purchase price of the property.

### 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 and services and facilities, and includes a licence to occupy a rental unit. It does not matter if the parties have called their agreement a tenancy agreement rather if any amount of the money that changes hands is part of the purchase price of the property, a tenancy agreement has not been entered into and the *Residential Tenancy Act* does not apply.

In this case the evidence supports the agreement entered into by the two parties is substantially linked to the sale and purchase of the subject property. Therefore, the *Residential Tenancy Act* does not apply and I decline jurisdiction in this matter.

Conclusion

I HEREBY DISMISS these matters 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: October 03, 2011.

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Residential Tenancy Branch