



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for a monetary order.

Both parties appeared, and were provided the opportunity to present their evidence and make submissions:

### Preliminary Issue

Before proceeding to examine and consider the merits of the landlords' application I must determine whether this application has jurisdiction under the *Residential Tenancy Act*. The legislation does not confer authority to consider disputes between all types of relationships between parties. Only relationships between landlords and tenants can be determined under the *Act*.

The female landlord stated that at a previous hearing the parties agreed that it was a residential tenancy and a settlement agreement by the parties was reached.

Counsel for the tenants argues that his clients did not have the benefit of legal counsel at that hearing and they only agreed to leave the property. The parties did not enter into a tenancy agreement as set out in 13(1) of the Act and the Residential Tenancy Act does not have jurisdiction where the interest of the tenant is greater than the right to possess.

The landlords' written submission states: in return for the right to possess the rental unit, the tenants agreed to execute an option to purchase and right of first refusal in our favour regarding the adjacent property. The intention between the parties was always the tenant's right to occupy the property was to be exchanged for the rights to be given to us under the option and rights of first refusal. [reproduced as written]

### Analysis

Based on the above submission of the parties,

The parties entered in to several different agreements in July 2009, that pertain to two properties adjacent to each other. The agreements between the parties are based on the exchange for rights to be given under the rights for first refusal.

The landlords have filed unsigned agreements into evidence.

- A lease agreement, which does not set rent at a specific amount, the amount of rent is equivalent to the month proportionate share of that year's annual taxes and utilities due for the premise.
- A land title document that shows the landlords have a right of first refusal on the tenants' adjacent property.

As the landlords' application is for a monetary order for the value for the right to possess the property and is not an amount specified in a tenancy agreement, I decline jurisdiction as the Act would not apply.

Therefore, I dismiss the landlords' application. The landlords' claim does not fall under the *Residential Tenancy Act* as the other party had an interest in the property greater than that of a tenant. The landlords should seek legal advice on the proper forum to make these claims.

### Conclusion

I dismiss the landlords' application.

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: December 12, 2011.

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Residential Tenancy Branch