



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT DRI MNDC RR O FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the applicants pertaining to matters relating to an offer to purchase the property and an agreement to occupy the house until conditions of the sale could be met.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Do these matters fall within the jurisdiction of the *Residential Tenancy Act*?

Background and Evidence

The parties agreed they entered into an agreement for sale/purchase of the property September 29, 2011 and the completion date was changed from November 30, 2011 to January 31, 2012 to allow the seller time to meet the terms of the agreement.

During the period between the offer and the agreed upon completion date the parties agreed they entered into an agreement to allow the applicants to occupy the property at a cost of \$2,000.00 per month with "half of rental monthly cost of \$2,000.00 a month being credited to the buyers from the sellers on the statement of adjustments at completion". Both parties affirmed that this amount was to be credited to the purchase price of the property.

Analysis

Section 1 of the Act provides that the definition of a tenancy agreement as 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.

The *Residential Tenancy Policy Guideline # 27(5)* stipulates that 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 Act. It does not matter if the parties have called their agreement a tenancy agreement. 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 parties entered into two agreements, July 16, 2011 and September 30, 2011 respectively, which I find are 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: March 13, 2012.

Residential Tenancy Branch