



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 512 PARK DRIVE HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, FF, O

Introduction

This hearing was scheduled to hear a tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and other issues. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the commencement of the hearing I determined it necessary to consider whether the *Residential Tenancy Act* applies and that I have jurisdiction to resolve this dispute. The *Residential Tenancy Act*, and my authority to resolve disputes, is limited to residential tenancy agreements between a landlord and a tenant. Accordingly, I must be satisfied that a tenancy agreement formed between the parties named in the Application for Dispute Resolution

It was acknowledged that the parties executed a document entitled "Agreement for Sale" for the subject property dated July 6, 2012. The Agreement for Sale does not contain a clause that provides for the formation of a tenancy in the event there is a default or violation of a term in the Agreement for Sale.

This Application was filed after the applicants were served with a 10 Day Notice to End Tenancy for Unpaid Rent on April 7, 2013 ("the 10 Day Notice"). The 10 Day Notice is the form approved by the Director of the Residential Tenancy Branch for purposes of ending a tenancy for unpaid rent under section 46 of the *Residential Tenancy Act*.

The applicants claim there have been several errors in the paperwork involving the Agreement for Sale and they question whether they have a valid Agreement for Sale or whether they had been released from the agreement.

The respondent submitted that he issued the 10 Day Notice in error, the parties do not have a tenancy agreement to which the Act applies, and that the dispute between the parties involves enforcement of the Agreement for Sale.

Having been presented evidence that the parties executed an Agreement for Sale for the subject property and considering the parties appear to be in dispute as to whether the Agreement for Sale is valid or still in effect I find I am unsatisfied that the parties have entered into a tenancy agreement. Therefore, on the balance of probabilities, I find that the Act does not apply to the relationship between the parties and I decline to accept jurisdiction to resolve this dispute.

For further certainty, having found the Act does not apply in this case the 10 Day Notice served upon the applicants is of no force or effect under the Act.

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: May 07, 2013

Residential Tenancy Branch