



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for unpaid rent and for recovery of the filing fee.

Landlord LT attended; the tenant did not attend.

The landlord testified that she served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on September 5, 2013. The landlord supplied testimony of the tracking number of the registered mail; additionally the landlord said that she called to confirm that the mail was delivered and that no mail has been returned to her.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

### *Preliminary issue-*

Before considering the merits of the landlords' application, I must determine whether there is jurisdiction under the *Residential Tenancy Act (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*.

### Background and Evidence

The landlord (hereafter "applicant") submitted documentary evidence which shows that the parties entered into an agreement titled "Rent to Purchase."

The applicant testified that the tenant (hereafter "respondent") agreed to pay a down payment of \$8000 towards the purchase price, and to pay rent for 1 year, before executing the final purchase documents.

The applicant testified that the respondent was to move in and begin making payments on August 1, 2013; however the respondent telephoned the applicant on July 23, 2013, informing her that he was not moving in and not going forward with the rent to own agreement, according to the applicant.

In response to my question, the applicant stated that she did not place the residential property in question back on the market for rent, as her intent is to sell the property, not rent it out.

The applicant further stated that in late August, she found subsequent renters/purchasers for the residential property and they moved in on September 1, 2013.

### Analysis

In this case, the parties entered into a Rent to Purchase on July 13, 2013. Filed in evidence is a copy of that document.

*Under Residential Tenancy Policy Guideline 27: Jurisdiction*, 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 Acts.

I find in this case, the parties did not enter into a tenancy agreement as set out in 13 of the Act and the Residential Tenancy Act does not have jurisdiction where the interest of the tenant in the property appears to be greater than the right to possess, as is the case here where the respondent was to have acquired an ownership interest.

I additionally considered that the respondent was required under the terms of their agreement to pay the property taxes for the residential property.

I find that the parties had an agreement that transferred an interest in the land which goes beyond the relationship of a landlord and tenant which is beyond the scope of the *Residential Tenancy Act*. As a result, I decline to accept jurisdiction in this dispute.

The parties are at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined 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: December 12, 2013

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Residential Tenancy Branch

