



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPB FF

Introduction:

This was an Application by the applicant who named himself as landlord to obtain an Order of Possession and a monetary order for rental arrears.

SERVICE:

The tenant agreed she received the Notice to End Tenancy and the Application for Dispute Resolution.

Background and Evidence:

This is a manufactured home in a manufactured home park. The home is owned by the named landlord. The named tenant contends she is not a tenant but a purchaser and has produced a Rent to Own Purchase Agreement signed by both parties wherein she agreed to pay \$550 a month from November 15, 2009 until the full purchase price is reached. She testified that she had made the payments but the applicant continued to harass her and would not convey the property into her name so she could pay the site fees.

The named landlord agreed she had made all but the last two payments and that the agreement should therefore be null and void.

Analysis:

Section 5 of the Residential Policy Guidelines deals with jurisdiction and states that:

5. TRANSFER OF AN OWNERSHIP INTEREST

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. It does not matter if the parties have called the agreement a tenancy agreement. **If the monies that are changing hands are part of the purchase price, a tenancy agreement has not been entered into.**

Similarly, a tenancy agreement is a transfer of an interest in land and buildings, or a license. The interest that is transferred, under section 1 of the Acts, is the right to possession of the residential premises. **If the tenant takes an interest in the land and buildings which is**

higher than the right to possession, such as part ownership of the premises, then a tenancy agreement may not have been entered into. In such a case the arbitrator may again decline jurisdiction because the Acts would not apply.

Pursuant to section 5 of the Policy Guidelines aforementioned I find that the tenant is a purchaser of real estate and entered into a Purchase Agreement and not a tenancy agreement. The weight of the evidence is that she has paid a significant sum in excess of \$20,000 towards the purchase price. I therefore find that the applicant and the respondent are not landlord or tenant and therefore that the *Residential Tenancy Act* does not apply to their relationship. I therefore conclude that I do not have jurisdiction to decide the various claims the landlord has made as each are intractably bound up in their contractual relationship of the purchase. The option of the parties is to have their concerns addressed in another forum. I further find that the landlord's Notice to End the Tenancy dated June 10, 2014 is unenforceable as the Residential tenancy Act is not Applicable to these parties.

Conclusion:

I dismiss the application without liberty to reapply as I have no jurisdiction in this matter.

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: August 06, 2014

Residential Tenancy Branch

