



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This hearing was convened in response to an application pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 49; and
2. An Order to recover the filing fee for this application - Section 72.

The Applicant and Respondent were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Dos the Act apply to the dispute?

Background and Evidence

The following are agreed facts: The Parties entered into an oral agreement in April 2014 for the possession of the unit and the Applicants paid the Respondents \$5,000.00 towards the purchase of the unit.

It is the position of Legal Counsel for the Respondent that the Residential Tenancy Branch (the “RTB”) has no jurisdiction over this dispute.

Analysis

Section 2 of the Act provides that the Act applies to tenancy agreements, rental units and other residential property. RTB policy guideline #27 provides that if monies that are changing hands are part of a purchase price, a tenancy agreement has not been entered into. As the Respondent collected monies towards the purchase of the unit and as the Applicant may have a greater interest in the unit than simply the right to possession of the unit I find that the agreement between the Parties is not a tenancy agreement and that the Act therefore does not apply.

Conclusion

The Act does not apply to the dispute.

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: July 31, 2017

Residential Tenancy Branch