



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PRIMARY CHOICE HOMES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, MNSD

### Introduction

This matter dealt with an application by the Tenant for loss or damage under the Act, regulations or tenancy agreement and to recover the security deposit.

The Applicant said she served the Respondent with the Application and Notice of Hearing (the “hearing package”) by registered mail on July 12, 2018. Based on the evidence of the Applicant, I find that the Respondent was served with the Applicant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

At the start of the conference call the Tenant said this situation was a rent to own or purchase agreement between the parties. The tenancy agreement was part of the purchase contract which has now collapsed. Although the contract was not submitted into evidence both parties confirmed the contract was a rent to own situation. The Respondent said the rental portion of the contract was for \$1,000.00 per month and the equity payment was \$400.00 per month. Consequently, I find the Applicant is not a tenant but a purchaser of the property. As soon as a tenant has an equity position in a property they are no longer a tenant because they have an ownership position in the property. I find this situation was a purchase contract between the parties not a tenancy agreement between the Applicant and the Respondent. Consequently, I find this situation is not a tenancy and I do not have jurisdiction to make a finding in this matter. The applicant may want to seek legal advice to determine how to proceed with her claims.

In the absence of evidence to show there is a tenancy between the Applicant and Respondent the Residential Tenancy Branch does not have jurisdiction in this situation. I dismiss the application as I find no authority to decide this matter under the *Residential Tenancy Act*.

Conclusion

The application is dismissed for lack 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: October 15, 2018

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Residential Tenancy Branch