



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding EBERLE VENTURES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

On July 16, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession for the rental unit based on issuance of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Landlord is also seeking a monetary order for unpaid rent.

The matter was set for a conference call hearing. The property owner and the Tenant attended the teleconference hearing. The owner was assisted by his agent and the Tenant was assisted by an advocate.

The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Preliminary and Procedural Matters

The parties testified that the living arrangement was a purchase agreement for a manufactured home for the amount of \$117,000. The Tenant paid the Landlord a \$7,000.00 deposit in August 2018, and she is to make monthly payments of \$1,300.00 to the Landlord. The parties testified that they signed a memo agreement on these terms.

The Landlord and Tenant testified that the amount of \$300.00 from each payment goes to the principle owing to the Landlord for the sale. Once the principle payments reach \$39,000.00 the title is to be transferred to the Tenant.

The Landlord testified that a follow up sale agreement was prepared; however, the Tenant has not signed it.

The Landlord testified that the Tenant was not making the monthly payments. The Landlord testified that the Tenant left the manufactured home sometime in June 2020 and the Landlord has rented to unit to a new Tenant.

The Landlord testified that they are still holding the \$7,000.00 payment they received from the Tenant.

The Tenant testified that she was away from the home when she was illegally evicted, and the Landlord took possession of the manufactured home in June 2020. The Tenant testified that she never saw or reviewed a purchase agreement other than handwritten memo agreement.

#### Issues to be Decided

- Does the Director have jurisdiction under the Act to resolve the dispute?

#### Analysis

Residential Tenancy Branch Policy Guideline # 27 Jurisdiction is intended to guide Residential Tenancy Branch staff and the public in understanding jurisdiction of the Director appointed under the Residential Tenancy Act. The Guideline provides information on ownership as follows:

#### **TRANSFERRING OWNERSHIP**

*A tenancy agreement transfers a landlord's possessory rights to a tenant. It does not transfer an ownership interest. If a dispute is over the transfer of ownership, the director does not have jurisdiction. In deciding whether an agreement transfers an ownership interest, an arbitrator may consider whether:*

- *money exchanged was rent or was applied to a purchase price;*
- *the agreement transferred an interest higher than the right to possession;*
- *there was a right to purchase in a tenancy agreement and whether it was exercised.*

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities I make the following finding:

I find that the parties entered into a written agreement regarding the purchase of the manufactured home. I find that the Landlord received \$7,000.00 from the Tenant. I also find that a portion of the money exchanged monthly was applied to the purchase

price of the manufactured home. The sale agreement reached by the parties is for more than the right of possession under a tenancy agreement.

In these circumstances, I find that I do not have jurisdiction to resolve the dispute.

The Landlords application for an order of possession and monetary order for unpaid rent based on issuance of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 5, 2020 is dismissed.

### Conclusion

I find that the parties entered into a written agreement regarding the purchase of a manufactured home. I find that I do not have jurisdiction to resolve the dispute.

The Landlords application is dismissed in its entirety.

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 26, 2020

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Residential Tenancy Branch