



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing convened as a result of a Tenants' Application for Dispute Resolution, filed on September 22, 2022 wherein the Tenants sought to cancel a 2 Month Notice to End Tenancy for Landlord's Use issued on September 9, 2022.

The hearing of the Tenants' Application was scheduled for 11:00 a.m. on February 9, 2023. Both Tenants called into the hearing as did the Landlord named on the Application, C.C.

At the outset of the hearing C.C. confirmed that she is the sister of the owner of the property, D.C., who is deceased. She further confirmed D.C. died intestate and that she is currently applying for a Grant of Administration under the *Wills Estates and Succession Act*.

### Preliminary Matter—Jurisdiction

The Tenants alleged they had a "rent to own agreement" with D.C. prior to his passing such that their rent payments since October 2021 were to be applied to the agreed upon sale price of \$80,000.00 for the rental home. Documentary evidence submitted by the Tenants supports the Tenants' allegations.

The power and authority of the Residential Tenancy Branch is derived from the *Residential Tenancy Act*. The dispute resolution process does not create a court and as such, Arbitrators delegated under the *Act*, do not have inherent powers arising under the common law which are possessed by a judge. In British Columbia, judges of the B.C. Supreme Court have exclusive jurisdiction over matters relating to ownership of property.

As provided for in *Residential Tenancy Branch Policy Guideline 27—Jurisdiction* I do not have jurisdiction to hear matters relating to the transfer of ownership of property.

## **2. 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, I am not satisfied that I have jurisdiction under the *Residential Tenancy Act* to hear the dispute between the parties as the Applicants allege a proprietary interest in the property pursuant to a rent to own agreement.

For this reason, I decline to hear the Application.

### **Conclusion**

I decline jurisdiction to hear the dispute between the parties on the basis that the issue relates to the ownership of the property which is within the exclusive jurisdiction of the B.C. Supreme Court.

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: February 14, 2023

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Residential Tenancy Branch