

Residential Tenancies Tribunal

Application 2025-0255-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing was held at 2:00 PM on 30 May 2025 via teleconference.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as "the applicants" attended.
3. The respondent, [REDACTED], hereinafter referred to as "the respondent", did not attend.

Preliminary Matters

4. The respondent was not present or represented at the hearing and no telephone contact information was available. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as they have been properly served. The applicants submitted an affidavit with their application stating that they had served the respondent with the notice of hearing electronically by email ([REDACTED]) and by registered mail ([REDACTED]) on 14 May 2025 at approximately 2:30 PM (A#1).
5. During the presentation of the claim, an issue with respect to jurisdiction arose which requires a decision prior to proceeding with a hearing on the issues raised in the Application for Dispute Resolution.

Issues before the Tribunal

6. The tribunal is required to adjudicate on its jurisdiction to hear this claim.

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018 (the Act)*.
8. Also, relevant and considered in this decision is Section 3 the *Residential Tenancies Act, 2018*, as well as Residential Tenancies Program Policy 01-008: Rent-to-Own and Option to Buy Agreements.

Issue 1: Jurisdiction

Analysis

9. Section 3 of this *Act* states:

Application of Act

3. (1) Notwithstanding another Act or agreement, declaration, waiver or statement to the contrary, this Act applies where the relationship of landlord and tenant exists in respect of residential premises.

(2) Notwithstanding another Act or agreement, declaration, waiver or statement to the contrary, this Act applies to residential premises, residential complexes and rental agreements, whether made before or after this Act comes into force.

.....

(4) This Act does not apply to

(k) an attornment clause in a mortgage or other instrument creating a security interest in residential premises.

10. Section 1-8 of the *Residential Tenancies Policy Manual* states:

Rent-to-Own and Option to Buy Agreements

Rent with Option to Buy agreements are covered by the Residential Tenancies Act so long as the tenant does not hold interest in the premises.

An individual who wishes to file a claim regarding rent to own agreements should be directed to seek legal counsel and advised that this division has no authority to deal with this matter.

11. Based on the information provided by the applicants, the respondent and applicants entered into an initial lease agreement with option to purchase. The residential lease agreement with option to purchase (A#2) included clause 21 which states, among other items that “50% of rent will be credited towards purchase price. If purchase option is declined, 50% credit is null, void and non-

refundable. All improvements are non-refundable. Repairs and maintenance are the responsibility of the tenant."

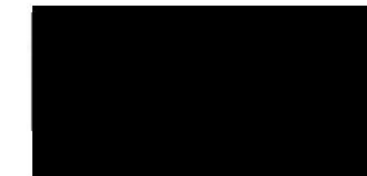
12. The applicants agreed to rent the premises to the respondent in anticipation of purchasing. While the purchase was never finalized, the respondent did complete renovations to the property. The applicants supplied testimony and evidence, along with their application that the respondent completed repairs to the railings to the basement stairs, replaced the upstairs carpet with laminate flooring, expanded the upstairs bathroom to increase the square footage, replaced the bathtub-kit with a larger one, had a wheelchair ramp installed for her daughter, and purchased a hot water tank and installed this item in the rental premises.
13. In accordance with Section 3 of the *Act* as stated above and in accordance with Section 1-8 of *Policy*, I accept that the respondent demonstrated that she had good intentions to purchase the property, and as a result secured and invested time, labour and funds into the property to maintain it and increase its value, thereby holding an interest in the property. For this reason, I find this claim does not fall under the jurisdiction of the *Residential Tenancies Act, 2018*. This tribunal has no authority to decide on the issue(s) raised by the applicant; and as such, dispute would have to heard in another court of competent jurisdiction.

Decision

12. This claim does not fall under the jurisdiction of the *Residential Tenancies Act, 2018*.

31 July 2025

Date



Michael Reddy, Adjudicator
Residential Tenancies Office