

IN THE MATTER between **DAVID METCALFE AND ANITA METCALFE**,
Applicants, and **ALAIN ROSSIGNOL AND GHISLAINE ROSSIGNOL**,
Respondents;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act") and amendments thereto;

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT.**

BETWEEN:

DAVID METCALFE AND ANITA METCALFE

Applicants/Tenants

- and -

ALAIN ROSSIGNOL AND GHISLAINE ROSSIGNOL

Respondents/Landlords

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 2nd day of April,
2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **DAVID METCALFE AND ANITA METCALFE**,
Applicants, and **ALAIN ROSSIGNOL AND GHISLAINE ROSSIGNOL**,
Respondents.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

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BETWEEN:

DAVID METCALFE AND ANITA METCALFE

Applicants/Tenants

-and-

ALAIN ROSSIGNOL AND GHISLAINE ROSSIGNOL

Respondent/Landlords

REASONS FOR DECISION

Date of the Hearing: March 13, 2013

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: David Metcalfe, applicant
Anita Metcalfe, applicant
Alain Rossignol, respondent
Ghislaine Rossignol, respondent
Edward Gullberg, representing the respondents

Date of Decision: March 13, 2013

REASONS FOR DECISION

The applicants alleged that the respondents had disturbed their quiet enjoyment of the rental premises and sought unspecified relief pursuant to section 34 of the *Residential Tenancies Act*.

The property in question was the subject of an offer to purchase made on June 7, 2011. Article 8.04 of that agreement entitles David and Anita Metcalfe, principals of the vendor, to occupy the premises on the property without charge until June 30, 2013. The parties agreed that the applicants paid no monies for the right of possession or for utilities or other services or facilities to the respondents.

The applicants argued that the purchase price of the property was negotiated with respect to the right of possession until June, 2013 which resulted in a lower sale price which constituted rent. There was no quantum that was identified by either party that represented that amount.

Section 6(1) sets out the jurisdiction of the *Residential Tenancies Act*.

6. (1) Subject to this section, this Act applies only to rental premises and to tenancy agreements, notwithstanding any other Act or any agreement or waiver to the contrary.

The following definitions are contained in section 1(1) of the Act:

"tenancy agreement" means an agreement between a landlord and a tenant for the right to occupy rental premises, whether written, oral or implied, including renewals of such an agreement.

"tenant" means a person who pays rent in return for the right to occupy rental premises and his or her heirs, assigns and personal representatives.

"landlord" includes the owner, or other person permitting occupancy of rental premises, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying rental premises, who is entitled to possession of a residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent.

"rent" includes the amount of any consideration paid or required to be paid by a tenant to a landlord or his or her agent for the right to occupy rental premises and for any services and facilities, privilege, accommodation or thing that the landlord provides for the tenant in respect of his or her occupancy of the rental premises, whether or not a separate charge is made for the services and facilities, privilege, accommodation or thing.

In my opinion, the negotiated price of the property does not constitute "rent". Since there was no rent required, the applicants are not tenants and there is no tenancy agreement.

This interpretation is stated in *Colleen Chartrand operating as Chartrand Homes v Wassim Abil-Mona* [*Chartrand v. Abil-Mona*, 2002 NWTSC 69] at paragraph 13

Section 6(1), however, which I have set out above, provides that the *Act* applies only to rental premises and to tenancy agreements. The definitions of those two terms in s. 1(1) import the requirement of rent or use of premises for rental. "Rent" includes the amount of any consideration paid or to be paid. In the arrangement between Chartrand and Mr. Abil-Mona, there was no consideration or rent paid for the right to use the designated apartment. The \$3,200.00 payable under the contract for his services was a set amount, unaffected by whether he did or did not use the apartment. As no rent was paid, Mr. Abil-Mona did not come within the definition of tenant in s. 1(1) and therefore there was no tenancy agreement under the definition in that section.

For these reasons, I have no jurisdiction as rental officer to determine the matter. The application is therefore dismissed.

Hal Logsdon
Rental Officer