



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

### Preliminary Issue to be decided - Jurisdiction

At the outset of the hearing both parties confirmed that the landlord has filed an action to be heard in regards to the tenancy of the named parties. Counsel for the landlord submits that the matters are linked from the tenancy and that it would be a more effective, efficient and appropriate course of action to have it heard all at the same time in the Supreme Court of British Columbia. Counsel submitted that the landlord had made attempts to resolve this matter but to no avail. The landlord submitted a copy of Petition to the Court, which appears to have been filed with the Supreme Court of British Columbia on January 6 2018, in which the landlord seeks a monetary claim for unpaid rent, damages, and cleaning.

The tenant submitted that he waited for his hearing and would like to have had it heard today. The tenant submitted that he would like to have some resolution in this matter.

### Analysis

**Section 58(2)(c) of the *Act* stipulates that I must resolve an Application for Dispute Resolution unless the dispute is linked substantially to a matter that is before the Supreme Court.**

Based on the submissions of the parties and the clear overlap in issues and claims, I find that the matters should be heard at the same time. On the basis of the submissions of the landlords counsel and the copy of Notice of Civil Claim, which appears to have been filed with the Supreme Court of British Columbia on January 6, 2018, I find that this matter is substantially linked to a matter that is before the Supreme Court of British Columbia.

As this matter is before the Supreme Court of British Columbia, I find that I do not currently have authority to adjudicate this matter. This finding was given and explained to the tenant in great detail. Although the tenant was stated he was disappointed that the matter wasn't heard on this date, he indicated that he understood how and why the decision was made.

### Conclusion

As I do not currently have authority to adjudicate this matter, I dismiss the tenant's application.

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 28, 2018

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Residential Tenancy Branch