



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application pursuant to the *Residential Tenancy Act* (the “Act”) for an order to cancel a one month notice to end tenancy for cause (“Notice”) pursuant to section 47.

The tenant did not appear at the hearing, however the tenant’s advocate, MG did. The advocate advised he has not had contact with the tenant since the filing of the application.

The landlord did not attend the hearing. I left the teleconference hearing connection open until 9:40 a.m. to enable the landlord to call into the hearing scheduled for 9:30 a.m. The tenant’s advocate advised he sent the Notice of Dispute Resolution to the landlord by registered mail on March 6, 2019. The tracking number is recorded on the cover page of this decision. I find the landlord was served with the Notice of Dispute Resolution five days later, on March 11, 2019 in accordance with sections 89 and 90 of the Act.

In accordance with Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* (“Rules”), this hearing was conducted in the absence of the landlord.

Preliminary Issue – Jurisdiction

Pursuant to section 58(1) of the *Act*, a person may make an application for dispute resolution in respect of the person’s rights, obligations and prohibitions under the *Act* or the terms of a tenancy agreement. Section 58(2) of the *Act* states (emphasis added):

Except as provided in subsection (4), if the director accepts an application under subsection (1), **the director must resolve the dispute under this Part unless**

- a) the claim is for an amount that is more than the monetary limit for claims under the Small Claims Act,
- b) (a.1) the claim is with respect to whether the tenant is eligible to end a fixed term tenancy under section 45.1 [tenant’s notice: family violence or long-term care],

- c) the application was not made within the applicable period specified under this *Act*, or
- d) **the dispute is linked substantially to a matter that is before the Supreme Court.**

Furthermore, Section 58(4) of the *Act* states:

The Supreme Court may

- a) on application, hear a dispute referred to in subsection (2) (a) or (c), and
- b) on hearing the dispute, make any order that the director may make under this *Act*.

The tenant's advocate provided a copy of an Order issued from the British Columbia Supreme Court in his evidence. The order states the tenant is to pay a sum to the landlord for the purchase of real property. The landlord issued the Notice for the tenant's failure to pay this sum. The tenant's application seeks to dispute the Notice and further seeks extension of time to pay the sum laid out in the Supreme Court Order.

I find the issues identified by the tenant in her application is substantially linked to a matter that is currently before the Supreme Court. 58(2) of the *Act* prevents the director or his delegate from resolving this dispute and 58(4) of the *Act* definitively grants the Supreme Court exclusive jurisdiction to do so. Accordingly, I find the director does not have the jurisdiction to resolve this dispute.

Conclusion

Based on the above, I dismiss the application without leave to reapply.

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: April 24, 2019

Residential Tenancy Branch