



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNC MNDCT**

### Introduction

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

- An order to cancel a One Month Notice to End Tenancy for Cause pursuant to section 47; and
- A monetary order for damages or compensation pursuant to section 67.

Both the landlord and the tenant attended the hearing. The landlord acknowledged receipt of the tenant's Application for Dispute Resolution Proceedings Package and testified she had no issue with timely service of documents.

### Preliminary Issue – Petition filed at the Supreme Court of British Columbia

On October 28<sup>th</sup>, the tenant filed additional evidence which included a copy of a filed petition to the Supreme Court of British Columbia whereby the landlord seeks to evict the tenant in order to comply with a government order.

I note the One Month Notice to End Tenancy for Cause before me seeks to end the tenancy because the rental unit must be vacated to comply with a government order.

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:

- (2) 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,
- (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],

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

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

- (4) 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.

I find the issues identified by the tenant in his application are substantially linked to the petition 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 that the Residential Tenancy Branch does not have the jurisdiction to resolve this dispute.

#### Conclusion

Based on the above, I decline to hear the tenants' application for want of jurisdiction. The tenant is at liberty to file a new application at anytime after these issues are resolved at 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: November 12, 2019

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Residential Tenancy Branch