



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- an order of possession of the rental unit pursuant to section 54;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing.

Issues

Do I have jurisdiction under the Act to make a decision on the application before me?

Background and Evidence

The tenant is claiming she entered into a tenancy agreement on November 26, 2022 with A.B. and the tenancy was to begin on December 1, 2022. The tenant is claiming A.B.'s ex-husband who she has named as the landlord in this application changed the locks and is blocking her access to the rental unit. The tenant is seeking an order of possession. A.B. attended the hearing as a witness for the tenant and is supporting the application. The tenant's application for an emergency order of possession was not filed until February 9, 2023 although the tenancy was allegedly supposed to begin December 1, 2022. The tenant stated she still needs a place to live and has found temporary accommodation for the time being.

The respondent landlord submits that he did not enter into tenancy agreement with the tenant or collect any deposit from her. The respondent landlord submits that there is already another valid tenancy in place and the fate of this property is subject to a Supreme Court proceeding tentatively scheduled for June 2023. The respondent landlord submits that he and his ex-wife own several properties which are all subject to

the Supreme Court proceeding. A copy of the Notice of Family Claim and Notice of Trial was submitted as evidence by the landlord.

Analysis

Section 58(2)d of the Act requires that the director must resolve an application for dispute resolution which it accepts under this section unless the dispute is linked substantially to a matter that is before the Supreme Court.

I find that this matter does not fall within the jurisdiction of the Act as it is substantially linked to a matter that is currently before the Supreme Court. I find that this matter is a family dispute and the subject property is part of the dispute. Both owners of the property are submitting that they have valid tenancies in place. In either event, given that the tenant did not file this application for over two months after her tenancy was allegedly supposed to begin, I find this is not an appropriate case to grant an order of possession especially if another tenancy is already in place.

The landlords are both cautioned to find a way to cooperate with each other as co-owners of the property until this matter is legally resolved through the courts rather than involve presumably innocent tenants in their games.

Conclusion

I find that I do not have jurisdiction over this matter as it is currently before the 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: April 12, 2023

Residential Tenancy Branch