



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, O

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought a monetary order and an order of possession. The tenant sought to have jurisdiction declined on the matter.

The hearing was conducted via teleconference and was attended by the landlord, his spouse and legal counsel and by the tenant, his son and legal counsel.

At the outset of the hearing, both parties confirmed that both parties claim ownership of the residential property in this matter and as a result that question is currently before the Supreme Court of British Columbia.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

In addition it must be decided, based on the tenant's application, if the *Residential Tenancy Act* has jurisdiction over the matter, pursuant to Sections 58 of the *Act*.

Analysis

Section 58 of the *Act* stipulates that if a landlord or tenant makes an application for dispute resolution in relation to a dispute with the person's landlord or tenant, the director must determine the dispute unless, among other things, the dispute is linked substantially to a matter that is before the Supreme Court.

Based on the testimony by both parties, I find that the matters currently before the Supreme Court regarding the dispute between the two parties to determine which one of the parties is the owner of the residential property will determine whether or not the landlord identified in this Application for Dispute Resolution has standing as the landlord in accordance with the *Act*.

As such, I find that this dispute is substantially linked to a matter before the Supreme Court and until such time as that matter is resolved in that Court I decline jurisdiction on the determination of this dispute.

I note here that in his written submission, legal counsel for the tenant has raised the question of jurisdiction on this matter relating to Section 4(i) of the *Act* that stipulates where a tenancy agreement has a term longer than 20 years the *Act* does not apply. As I have declined jurisdiction based on Section 58 of the *Act*, I heard no evidence and make no findings regarding this assertion.

Conclusion

Based on the above, I dismiss the landlord's Application for Dispute Resolution in its entirety, with leave to reapply, if jurisdiction can be established.

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: December 15, 2010.

Dispute Resolution Officer