



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

CNR and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Unpaid Rent and Utilities and to recover the filing fee from the Landlord for the cost of filing this application.

Preliminary Issue

Before considering the merits of the Applicant's Application for Dispute Resolution I must determine whether this application has jurisdiction under the *Residential Tenancy Act(Act)*. The Applicant assumes the position that I do not have jurisdiction in this matter and the Respondent assumes the position that I do have jurisdiction in the matter.

The Respondent and the Applicant agree that the Respondent has commenced a Supreme Court Action in relation to the property that is the subject of this dispute. A copy of the Notice of the Civil Claim has been submitted to the Residential Tenancy Branch by the Respondent.

In the Notice of Civil Claim the Respondent declared that the Respondent and the Applicant entered into a business arrangement involving the subdivision of the property that is the subject of this dispute, that they reached an agreement that the Applicant could occupy a home on the property for one month for a single monthly payment of \$500.00, that the Applicant has remained on the property without paying any rent, that the Applicant has made no meaningful contributions toward the proposed subdivision, that the Respondent has loaned the Applicant a significant amount of money, that the Applicant built a suite above the garage on the residential property, that the Applicant is renting the suite above the garage to a third party, and that the Applicant has kept the rent that has been paid for the suite above the garage.

The relief sought in the Civil Claim includes, in part, a judgement in the amount of \$138,004.95, which includes rent payments for the rental unit and the garage suite, and that the Applicant deliver full and vacant possession of the rental property.

Section 58(2)(c) of the *Act* stipulates that except as provided in subsection (4), if the director receives an application under subsection (1), the director must determine the dispute unless the dispute is linked substantially to a matter that is before the Supreme Court.

In my view the issues in dispute at these proceedings, specifically whether the Applicant is required to pay monthly rent and whether the Respondent has the right to end this “tenancy” for unpaid rent is a matter that is substantially linked to the issues outlined in the matter that is currently before the Supreme Court.

Conclusion

I dismiss the Application for Dispute Resolution, pursuant to section 58(2)(c) of the *Act*, as the dispute is linked substantially to a matter that is 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 *Act*.

Dated: February 18, 2011.

Residential Tenancy Branch