



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

This hearing was convened in response to an application by the Landlord for an Order of Possession pursuant to Section 55 of the *Residential Tenancy Act* (the “Act”).

At the onset of the Hearing the Tenant stated that a Certificate of Pending Litigation (the “Certificate”), originally dated May 25, 2011 and subsequently stamped July 27, 2011, has been filed at the Land Titles Office in relation to the property and that all assets of the Landlords have been frozen. The Tenant states that the Tenant has an interest in the property and that the dispute over this interest will be dealt with in court.

The Landlord states that the property has been sold and possession is to take place shortly. The Landlord confirms that yesterday they received a copy of the Certificate and that the realtor’s lawyer notified them that litigation was pending. The Landlord states that they have not yet been formally served with the Certificate and that the Certificate and pending litigation should have no bearing on their entitlement to an Order of Possession as the Tenant has no claim to the property.

Subsection 58 (2) (c) of the Act provides that an application in relation to a dispute must be determined unless the dispute is linked substantially to a matter that is before the Supreme Court. Further, subsection 58(4) provides that the Supreme Court may, on application, hear a dispute referred to in subsection 58 (2) (c) and on hearing the dispute, make any order that the director may make under the Act.

The Tenant disputes the Landlords’ entitlement to an Order of Possession for the property as the Tenant claims an interest in the property. I accept the evidence of the Parties that litigation over the Tenant’s claimed interest in the property is pending and find that that the dispute over the Landlords’ entitlement to an Order of Possession is

linked substantially to a matter that may be determined by the Supreme Court. Further, as the matter of whether the Landlords are entitled to an Order of Possession may be determined by the Supreme Court on application to that Court, I dismiss the Landlords' application.

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: August 05, 2011.

Residential Tenancy Branch