



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNE, FF

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

1. An Order cancelling the Notice to End Tenancy – Section 48;
2. An Order to recover the filing fee for this application - Section 72; and
3. Other.

In submissions made prior to the Hearing, the Applicant raised the issue of jurisdiction. The Applicant submits that the dispute is part of a matter over which proceedings have been commenced at the Supreme Court of British Columbia. The Applicant provided copies of the Petition to the Court and supporting affidavits filed on October 3, 2011 at the Vancouver registry.

At the Hearing, the Applicant confirmed their position and stated that the Parties had agreed to adjourn the matter to consider and prepare for, inter alia, the question of jurisdiction. The Respondent argues that the dispute is between family members and that while the issue of tenancy is mentioned in the materials filed at the Supreme Court, the issue is not integral to the matter to be considered.

Section 59 of the Act provides where an application for dispute resolution has been received, the dispute must be determined unless the dispute is linked substantially to a matter that is before the Supreme Court. Given the information contained in the Petition and Affidavits filed at the Supreme Court and provided as evidence for this Hearing, I find that the dispute is linked substantially to a matter before the Supreme Court as the issue of the authority over the determination of occupancy the unit is one of the matters

before the Supreme Court. I therefore decline to hear and determine the dispute contained in the application. The application is dismissed.

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: October 05, 2011.

Residential Tenancy Branch