



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MT, CNC, OPT, FF, O

### Introduction

The applicants submit that there is no jurisdiction under the *Residential Tenancy Act* (Act) to determine a dispute between the parties. There is no tenancy agreement between them; they are all owners of the property they live in. The applicants also claim that the dispute is linked substantially to a matter before the Supreme Court of British Columbia involving an amount that is more than the monetary limit for claims under the Small Claims Act.

The lawyer for the respondent agrees that the applicants have filed a petition to the Supreme Court on September 11, 2012 concerning ownership of the property.

In determining whether or not this matter can be dealt with today I refer the parties to section 58 of the Act and in particular section 58 (2)(c) of the Act which states:

**58** (1) *Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:*

*(a) rights, obligations and prohibitions under this Act;*

*(b) rights and obligations under the terms of a tenancy agreement that*

*(i) are required or prohibited under this Act, or*

*(ii) relate to*

*(A) the tenant's use, occupation or maintenance of the rental unit, or*

*(B) the use of common areas or services or facilities.*

*(2) Except as provided in subsection (4), if the director receives an application under subsection (1), the director must determine the dispute unless*

*(a) the claim is for an amount that is more than the monetary limit for claims under the Small Claims Act,*

*(b) the application was not made within the applicable period specified under this Act, or*

*(c) the dispute is linked substantially to a matter that is before the Supreme Court.*

*(3) Except as provided in subsection (4), a court does not have and must not exercise any jurisdiction in respect of a matter that must be submitted for determination by the director under this Act.*

Section 58(4) of the Act states

*(4) The Supreme Court may*

*(a) on application, hear a dispute referred to in subsection (2)*

*(a) or (c), and*

*(b) on hearing the dispute, make any order that the director may make under this Act.*

Consequently I decline to hear this application today as the applicants have shown that the matter 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 *Residential Tenancy Act*.

Dated: October 23, 2012.

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Residential Tenancy Branch

