



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vanac Development Corp.
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes MNDC, OLC, RPP, LRE, OPT, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order for the landlord to comply with the Act, Regulations or tenancy agreement; for an Order for the landlord to return the tenants personal property; for an Order to suspend or set conditions on the landlords right to enter the rental unit; to Obtain and Order of Possession of the rental unit; and to recover the filing fee from the landlord for the cost of this application.

Preliminary Issues

Legal Council for the landlord has shown that this matter is also substantially before the Provisional Court of British Columbia. The tenant requests leave to cancel the action at the Provisional Court.

Analysis

I have allowed this matter to be adjourned today as the tenants Legal Advocate and the tenant have stated that the tenant will cancel any proceedings filed in the Provincial Court. As the matter will be heard at a reconvened hearing, I will require evidence from

the tenant that all proceedings have been cancelled with the Provencal Court and the Parties concerned notified of this.

I refer the parties to section 58 (2) (c) of the *Residential Tenancy 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

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

As the tenant had filed this matter in the Provincial Court and Legal Council for the landlord argues that this is duplicitous as both actions are for the same issues or related to the same issues then I am not prepared to hear the tenants application today and the matter is adjourned and reconvened after evidence has been provided by the tenant or the tenants Legal Advocate that the matter is cancelled at the Provincial Court.

As the landlord received the tenant's evidence package late for this hearing; I will allow the landlord to provide any documentary evidence in rebuttal of the tenant's documentary evidence only. No further evidence will be considered at the reconvened hearing. Evidence must be served to the tenant and this office five days before the reconvened hearing.

Conclusion

This hearing is adjourned until October 18, 2013 at 1.30 p.m. Hearing letters for the reconvened hearing will be sent separately to each party as directed by the parties at the hearing.

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: September 05, 2013

Residential Tenancy Branch

