



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenant: CNL, FF

For the landlord: OPB, OPC, OPL, FF

Introduction and Preliminary Issue

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Manufactured Home Park Tenancy Act* (the "Act").

The tenant applied seeking an order cancelling the landlord's 2 Month Notice to End Tenancy for Landlord's Use of the Property (the "Notice") and for recovery of the filing fee.

The landlord applied for an order of possession due to an alleged breach by the tenant of an agreement with the landlord, for alleged cause, and for landlord's use of the property, and for recovery of the filing fee.

The applicant/tenant and the applicant/landlord and his agent appeared and the issue of jurisdiction was discussed, due to the written submissions of the tenant.

Issue(s) to be Decided

Does the *Manufactured Home Park Tenancy Act* apply to this dispute?

If so, is the tenant entitled to an order cancelling a landlord's notice to end the tenancy?

Additionally, if so, is the landlord entitled to an order of possession for the manufactured home site?

Background and Evidence

The tenant submitted a copy of a Notice of Civil claim filed in the Supreme Court of British Columbia and submitted that the issues contained in the respective applications for dispute resolution are issues substantially before the Supreme Court. A particular issue pertains to a buy-out clause the tenant said was in their tenancy agreement.

The tenant submitted that he was advised by his attorney that a hearing on his civil claim is set for August 14, 2014, before the Court.

In response to my question, the landlord's agent stated that the landlord is represented by legal counsel as well in the Supreme Court matter; however the landlord further submitted that they had not been advised of a hearing being set.

Analysis and Conclusion

Before proceeding to examine and consider the merits of the parties' applications, I must determine whether this application is under the jurisdiction of the *Manufactured Home Park Tenancy Act*.

Section 51(2)(c) of the Act states that the director must determine the dispute contained in an application for dispute resolution unless the dispute is linked substantially to a matter that is before the Supreme Court.

After reviewing the Notice of the Civil Claim, I have determined that the issues in the parties' applications, such as legal possession of a manufactured home site and potential evictions, are matters before the Supreme Court of British Columbia.

Therefore, I decline to find jurisdiction to resolve this dispute.

The parties are at liberty to continue to seek the appropriate legal remedy to this dispute, which is now before the Supreme Court of British Columbia.

Conclusion

I do not find the *Manufactured Home Park Tenancy Act* applies to this dispute and I have declined jurisdiction.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: November 07, 2013

Residential Tenancy Branch

