



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This was a hearing with respect to the tenant's application to cancel a 10 day Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The tenant and her legal counsel called in and participated in the hearing. The landlord did not attend although served with the application and Notice of Hearing sent by registered mail on May 2, 2014.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Background and Evidence

The tenant applied to cancel a 10 day Notice to End Tenancy for unpaid rent. In her application for dispute resolution the tenant said:

(Name of Tenant) is not a tenant. She is the common law spouse of (name of landlord). Currently there is a dispute between the parties, and a Supreme Court action will be commenced with relation to the property at (address of rental unit)

The tenant submitted a copy of a charge filed against the rental property in the New Westminster Land Title Office under the Land (Spouse Protection) Act, R.S.B.C. 1996 c. 246. Counsel for the applicant advised that the tenant has claimed an interest in the rental property and a proceeding to claim an interest in the landlord has been commenced in the Supreme Court of B.C.

Section 58 of the *Residential Tenancy Act* provides in part as follows:

(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.

(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.

Analysis and conclusion

Because this dispute is linked substantially to a matter that is before the Supreme Court, I decline jurisdiction over this dispute. The parties may apply to the Supreme Court to have this dispute determined as part of the proceedings 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: June 19, 2014

Residential Tenancy Branch

