



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction and Preliminary Matters

This hearing was convened as a result of the applicant/tenant's (hereafter "applicant") application for dispute resolution under the Residential Tenancy Act (the "Act"). The applicant applied for an order cancelling the landlord/respondent's (hereafter "respondent") notice to the tenant to vacate the dispute address. I note that the respondent did not issue the applicant a Notice to end the tenancy on the Residential Tenancy Branch ("RTB") standard form, as is required under the Act.

The applicant attended the telephone conference call hearing; the respondent did not attend.

Due to information contained in the applicant's documentary evidence, I inquired of the applicant if the dispute address was located on Indian land and she confirmed that the dispute address was located on Indian land.

Analysis and Conclusion

In order for me to make a decision on the applicant's application, I must first decide whether this dispute is excluded from the jurisdiction of the *Residential Tenancy Act*.

The Residential Tenancy Act derives its authority under provincial legislation which governs residential tenancy agreements within British Columbia. Provincial legislation cannot affect the "use and occupation" of Indian Lands because that authority belongs to the federal government under Section 91 of the Constitution Act.

The applicant is seeking an order cancelling the respondent's written notice to the applicant to vacate the dispute address ending the tenancy.

As this dispute address affects the use and occupation on Indian lands, I therefore decline to accept jurisdiction of the applicant's application and dispute with the respondent.

The parties are at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I do not find the *Residential 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 *Residential Tenancy Act* and is being mailed to both the applicant and the respondent.

Dated: October 31, 2014

Residential Tenancy Branch

