



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession based on a 2 month Notice ending tenancy for landlord's use of the property, issued on August 26, 2014 and to recover the filing fee cost from the tenant. The Notice has an effective date of October 31, 2014.

Preliminary Matters

The parties confirmed that on August 26, 2014 a 2 month Notice ending tenancy for landlord's use of the property was given to the tenant. The tenant applied to cancel the Notice and on October 15, 2014 he cancelled his hearing, disputing the Notice. The tenant remains in the unit. The tenant confirmed he had commenced a Supreme Court action in relation to his status and relationship with the landlord and approached the Residential Tenancy Branch with his Family Court documents; at which point his hearing was cancelled.

The parties confirmed that they are to appear at a Judicial Case Conference on December 14, 2014. The Supreme Court of British Columbia will be considering the tenant's Notice of Family Claim.

I considered section 58 of the Act, which provides, in part:

Determining disputes

- 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.***

(Emphasis added)

Therefore, as the status of the relationship and the property is in dispute and linked substantially to the Supreme Court, I cannot determine the dispute.

If necessary, the landlord has leave to reapply, within the legislated time-frame, once the dispute is no longer substantially linked to the Supreme Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 01, 2014

Residential Tenancy Branch

