



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties were represented at the conference call hearing.

The tenant provided evidence that he has filed a notice of civil claim in the Supreme Court seeking, amongst other relief, a declaration of trust in the subject property. The landlord took the position that the Supreme Court claim has no merit and expressed concern that by the time matters were resolved in court, the limitation period for a claim under the *Residential Tenancy Act* (the "Act") would have expired.

Section 58(2)(c) of the Act provides as follows.

58(2) Except as provided in subsection (4), if the director receives an application under subsection (1), the director must determine the dispute unless

58(2)(c) the dispute is linked substantially to a matter that is before the Supreme Court.

I have determined that I cannot take jurisdiction in this matter as there is currently a claim before the Supreme Court which addresses precisely the issues which are before me. It is not my role to determine the merits of that claim and I find that the mere existence of this claim prevents me from taking 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*.

Dated: January 26, 2015

Residential Tenancy Branch

