



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT

Introduction

This hearing was convened in response to an application by the Tenant for an order of possession pursuant to section 54 of the *Residential Tenancy Act* (the “Act”).

I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing in person at the Landlord’s office on May 8, 2015 in accordance with Section 89 of the Act. The Landlord did not attend the hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the dispute substantially linked to a matter before the Supreme Court?

Background and Evidence

On May 6, 2015 the Landlord obtained an order of possession for the rental unit. This order was set aside in a Review Consideration Decision and a new hearing on the matter is scheduled for June 22, 2015. Prior to the Review Decision the Landlord obtained a Writ of Possession from the Supreme Court and with a bailiff removed the Tenant’s belongings. On June 2, 2015 the Tenant obtained a stay of proceedings on the Writ and the Landlord was ordered to return the keys for the unit to the Tenant and to return the Tenant’s belongings. The stay of proceedings also gave the liberty to apply to set aside the stay. The Tenant will serve this stay of proceedings and orders on the Landlord today. The Tenant seeks an order of possession of the unit.

Analysis

Section 58 of the Act provides that an application for dispute resolution must be determined unless the dispute is linked substantially to a matter that is before the Supreme Court. Based on the Tenant's evidence I find that this dispute is about possession of the unit. Further based on the Tenant's evidence of the stay of proceedings from the Supreme Court and the Landlord's ability to remove the stay by application to the Supreme Court, I find that the matter of possession of the unit is currently a matter that is before the Supreme Court. I therefore dismiss this application.

Conclusion

The application is dismissed.

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 03, 2015

Residential Tenancy Branch

