



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed on June 2, 2016. The Applicant filed seeking an order to cancel two 2 Month Notices to end tenancy for landlord's use.

The hearing was conducted via teleconference and was attended by the Applicant, the Applicant's legal counsel (Counsel) and the Respondent's legal counsel (Counsel). I explained how the hearing would proceed in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The Respondent's Counsel confirmed receipt of the application for Dispute Resolution and Notice of hearing documents.

Issue(s) to be Decided

Does this matter fall within the jurisdiction of the *Residential Tenancy Act* (the *Act*)?

Background and Evidence

On May 16, 2016 a 2 Month Notice to end tenancy, listing an effective date of July 31, 2016, was issued to the Applicant for the following reason:

All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

On May 24, 2016 the Applicant was issued a second 2 Month Notice to end tenancy, listing an effective date of July 31, 2016, for the following reason:

All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The Applicant argued these matters involved matrimonial issues and the Applicant has interest in the subject property. They asserted the Applicant was not a tenant; rather, he was a spouse.

The Applicant submitted there was pending litigation in Supreme Court regarding the aforementioned arguments and ownership of the property. A copy of the Notice of Civil Claim registered on May 20, 2016 was submitted into evidence.

The Respondent argued there was evidence to support their view that the Applicant was not a spouse. They asserted that if the Applicant had any interest in the property that interest would be minimal. The Respondent has since filed a Notice of Application with the Courts.

Analysis

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

Section 58(2)(c) of the *Act* stipulates that if the director receives an application the director must determine the dispute unless the dispute is linked substantially to a matter that is before the Supreme Court.

Notwithstanding the Respondent's issuance of two 2 Month Notices to end tenancy pursuant to section 49 of the *Act*, the irrefutable evidence was these matters were substantially linked to a matter or matters that are before the Supreme Court. Accordingly, I declined to determine these matters, for want of jurisdiction, pursuant to section 58(2)(c) of the *Act*.

Conclusion

These matters were not determined, for want of jurisdiction. The parties are at liberty to seek a remedy through the Court of competent 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: July 28, 2016

Residential Tenancy Branch

