



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes MNDC, FF

Introduction

This decision deals with two applications for dispute resolution, both filed by the tenant.

Both files are monetary claims, one for \$25,000.00, and the other claim for \$11,067.50. The applicant is also requesting recovery of his \$100.00 filing fee in both of these claims.

An extensive amount of documentary evidence, digital evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

However, while reviewing the documents, a question of jurisdiction arose, and I therefore first dealt with jurisdiction in this matter.

Jurisdictional Issue

Pursuant to subsection 58(3) of the Residential Tenancy Act, the Residential Tenancy Branch has exclusive jurisdiction over disputes arising under the Act; however pursuant to paragraph 58(2)(c), if there is an application with the BC Supreme Court, this Branch's ability to determine a dispute is suspended, pending the outcome of that claim.

Section 58(2) is copied below:

58(2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless

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

This provision provides primacy to the Supreme Court's jurisdiction where jurisdiction overlaps, so long as that matter is substantially linked to the matter that is before the Supreme Court.

In this case the respondent/landlords have provided evidence that shows that the applicant/tenant has filed a claim in the Supreme Court of British Columbia.

Further, upon reading the applicant/tenant's response to the landlord's submissions, I find that, on page 6 of 25, the applicant/tenant has also stated that he has filed a claim in the Supreme Court of British Columbia.

Upon reading that Notice of Civil Claim, it is my finding that the disputes outlined in both these files are linked substantially to the matter that is before the Supreme Court.

Further, the combined amount claimed by the applicant/tenant in these two files, exceeds the \$25,000.00 monetary limit that can be filed under the Residential Tenancy Act, and since claim splitting is not allowed, this too, takes the claims out of the Jurisdiction of the Residential Tenancy Branch.

It is my decision therefore that I do not have jurisdiction to hear these applications at this time.

Conclusion

All claims made in files 543636 & 543641 are dismissed, with leave to reapply if the Supreme Court sends the claims back to be heard under the Residential Tenancy Act, or if the applicant provides proof, from the Supreme Court, that the Supreme Court claim has been withdrawn.

Further, as stated above, should the applicant reapply through the Residential Tenancy Branch, his total claim cannot exceed \$25,000.00 plus his filing fee.

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: October 11, 2016

Residential Tenancy Branch

