



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC O

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on August 9, 2016. The Tenant filed seeking a \$300.00 for loss of quiet enjoyment and for other reasons.

On November 10, 2016 the Tenant amended his application to increase the monetary amount for loss of quiet enjoyment from \$300.00 to \$1,100.00 and to add a claim for \$600.00 in aggravated damages.

The hearing was conducted via teleconference and was attended by Landlords' Counsel; the Landlords' Agent; the Tenant, and the Tenant's Advocate.

Issue(s) to be Decided

Is this matter significantly linked to a matter currently before Supreme Court?

Background and Evidence

At the outset of this proceeding Counsel requested an adjournment on the grounds that he was only told of this matter on November 21, 2016. He submitted that while there were issues regarding service he was not seeking a long adjournment due to service issues. Rather, he was seeking a short adjournment that would allow him time to prepare and submit evidence on behalf of his clients.

Counsel then pointed to a copy of a civil claim action filed in Supreme Court on August 29, 2016 provided at tab 3 in the Tenant's volume of evidence. He also pointed to an affidavit submitted at tab 10. The Supreme Court action named the Tenant as plaintiff and the Landlords as defendants. Counsel stated that their first meeting regarding that Supreme Court action was scheduled for this Thursday (December 1, 2016) during which they would be discussing any other related actions and their arguments whether those actions should be stayed.

The Advocate stated that the central focus of the Supreme Court action related to required repairs and maintenance, In addition, that action included overlapping issues relating to the Tenant's fear and intimidation caused by the Landlord's actions, or lack

thereof, which related to the Tenant's monetary claims listed on his application for Dispute Resolution.

The Supreme Court action references, in part, the Tenant or ``residents`` to be:

...fearful, intimidated and subdued from making criminal reports or complaints regarding building maintenance to the appropriate authorities, including the City of Vancouver and the Residential Tenancy Board, and the activities diminish the quality of life at the [building name].

[Reproduced as written, excluding building name, p 6 item16]

The relief sought by the Tenant in the Supreme Court action, as listed on p 7 item 18 includes, in part: general damages; special damages; aggravated damages; and punitive damages; an interim, interlocutory or final order restraining the [owners/Landlords] from having direct or indirect contact with the tenants and require the owners/landlords to keep the peace and be of good behaviour for the duration of repairs; and an interim, interlocutory and permanent injunction preventing the Landlords from evicting any of the tenants while health and safety issues are remediated.

When I first explained section 58 of the *Act* to the Advocate she stated they were not opposed to having the Supreme Court action and affidavit removed from their evidence. She suggested that once those documents were removed from evidence, they could proceed with the application.

Analysis

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.

I am not convinced that the Tenant's current application(s) for Dispute Resolution is not significantly linked to the Supreme Court action. From her own submission the Advocate clearly identified that both actions related, in part, to the Tenant's fear and intimidation caused by the Landlord's actions. In addition, the documentary evidence clearly shows the Tenant is seeking similar remedies of general damages; aggravated damages; and orders directly related to residential tenancy matters.

Therefore, given the scope of the matters currently before Supreme Court, I declined to hear the matters relating to the Tenant's August 09, 2016 application for Dispute Resolution and the November 10, 2016 amendment.

Conclusion

I declined to hear the Tenant's application and amendment as they were significantly link to matters currently before Supreme Court.

This decision is final, legally binding, 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: November 28, 2016

Residential Tenancy Branch