



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OPL, FF

Introduction

This was a cross-application hearing for Dispute Resolution. The matter was set for a conference call hearing.

The Landlord applied requesting an order of possession based on the issuance of a 2 Month Notice To End Tenancy For Landlord Use of Property, and to recover the cost of the application fee.

The Tenant applied to cancel the 2 Month Notice To End Tenancy For Landlord Use of Property and to recover the cost of the application fee.

Both parties were present at the hearing. The Tenant was assisted by his lawyer, T.C. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant provided affirmed testimony that this is not a tenancy situation under the *Residential Tenancy Act*. He testified that he has an agreement with his sister, that he has part ownership of the home identified in the Application for Dispute Resolution as the dispute address. He testified that there is no tenancy agreement; he did not pay any security deposit; and he pays no monthly rent. He testified that he took over making the mortgage payments on the house.

The Tenant's lawyer T.C. submitted that this matter is now before the BC Supreme Court. He submitted that on December 20, 2016, the Tenant filed a Notice of civil claim with the Supreme Court.

The Tenant did not provide a copy of any documents to support his submission that a Notice of civil claim has been filed.

Section 58 of the Act states, if the director accepts an application which relates to a tenants use, occupation, or maintenance of the rental unit, the director must resolve the dispute unless the dispute is linked substantially to a matter that is before the Supreme Court.

The Landlord submitted that D.H. his ex-spouse, transferred her one half interest of the property to him.

The Landlord has provided documentary evidence of a separation agreement between the parties, and a state of title document naming the Landlord as the registered owner, along with A.K. his grandmother.

Despite having no documentary evidence in support of testimony, the Tenant's Lawyer, an officer of the court, submitted that a Notice of Civil Claim was filed with the Supreme Court regarding the Tenant's ownership of the property.

I accept the Lawyers submission, and I find that the dispute is linked to a matter that is before the Supreme Court, and as such, I decline authority to resolve the dispute.

I decline an order granting the recovery of the filing fees.

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: December 22, 2016

Residential Tenancy Branch