



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, MND, FF, MNSD

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

. The tenants were represented by legal counsel. The landlord was self-represented.

### Issue to be Decided

Should the landlord's Application be heard at the Supreme Court of British Columbia ("SCBC") or the Residential Tenancy Branch ("RTB")?

### Background and Evidence

The tenants originally filed an application at the RTB to which the landlord responded by filing this cross application. Due to ongoing and escalating circumstances, the tenants have filed an application to have this matter heard in the SCBC.

The tenants counsel produced SCBC pleadings relating to a pending action filed by the tenants on January 16, 2017 with the landlord named as the defendant as a result of

this tenancy. The landlord confirmed that she was aware of that filing but feels it's unnecessary and doesn't want to address the matter in Supreme Court.

### Analysis

Section 58 of the *Act* states the following, in part:

*(2) Except as provided in subsection (4), if the director receives an application under subsection (1), the director must determine the dispute unless...*

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

*(4) The Supreme Court may*

*(a) on application, hear a dispute referred to in subsection (2) (a) or (c), and*

*(b) on hearing the dispute, make any order that the director may make under this Act.*

I find that the landlord's Application is linked substantially to a matter that is currently before the SCBC, as per section 58(2)(c) of the *Act*. It is clear from the orders sought by the tenant that they are seeking a determination from the SCBC regarding the issues regarding this tenancy.

### Conclusion

I advised all parties during the hearing that I decline to exercise jurisdiction over the landlord's Application.

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: January 23, 2017

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Residential Tenancy Branch