



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for an Order of Possession enforcing the end of a fixed term tenancy pursuant section 55.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord SS spoke on behalf of the landlord (the "landlord").

Preliminary Issue – Jurisdiction

Based on the evidence submitted prior to the hearing, a question arose in regards to whether I had jurisdiction regarding this application. Specifically, I needed to determine whether I had jurisdiction to hear this matter, or whether it was a matter substantially linked to a matter before the Supreme Court of British Columbia ("SCBC").

The tenant submitted into evidence SCBC pleadings relating to a pending civil claim filed by the tenant on December 16, 2016. The landlord is one of the defendants in the tenant's SCBC action. The landlord confirmed receipt of the tenant's SCBC pleadings. In the SCBC pleadings, the tenant seeks, among other relief, "an order modifying the tenancy agreement [with the landlord] from a fixed-term lease to a month-to-month tenancy" and an order preventing the landlord from taking steps to remove the tenant from the dispute address.

The tenant testified that this matter should be heard by the SCBC as the relief sought there by the tenant is substantially linked to the landlord's present application.

The landlord testified that the relief sought by the tenant before the SCBC is only peripherally related to the tenancy and the substantive substance of the SCBC

pleadings relates to monetary claims made against individual defendants. While the landlord confirmed that the tenant is claiming relief in the SCBC action in regards to this tenancy, they argue that the SCBC action is only tenuously linked to the present application.

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.

It is clear that the landlord's Application pertains to the same property that is before the SCBC, which involves both parties, and where a determination has yet to be made in regards to the tenancy agreement. As such, 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*.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this 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: February 6, 2017

Residential Tenancy Branch