



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing was scheduled to consider the Applicants' application for Dispute Resolution (the "Application") under the Residential Tenancy Act (the "Act") for an order of possession for cause; and to recover the filing fee for their Application from the respondents.

The Applicants' agent appeared at the teleconference hearing. The Respondents' agent who was also the Respondents' legal advocate (the "Respondents' advocate") appeared at the teleconference hearing. The parties' representatives were given an opportunity to be heard, to present sworn testimony and make submissions on the limited issue as to whether there is jurisdiction to hear the applicants' application. A summary of the testimony and submissions is provided below and includes only that which is relevant to the hearing.

Preliminary and Procedural Matters – Jurisdiction

The Respondents' advocate submitted a copy of an Arbitrator's decision dated December 6, 2016 that dealt with an application brought by these Respondents against the same Applicants named in these proceedings. The Arbitrator in their decision declined to accept jurisdiction. The Respondents' advocate indicated that the Respondents' application was in relation to the same property which is the subject of this application. The file number for the previous hearing is indicated on the cover page for ease of reference.

The Arbitrator declined jurisdiction after finding that the Respondents may have an interest in the property which is higher than the right to possession. The Respondents' advocate referred to the Arbitrator's reason for declining jurisdiction indicating that nothing has changed. The Respondents' advocate argued that there is no jurisdiction to deal with the Applicants' application for the same reason as that given by the Arbitrator in the dealing with the Respondents' earlier application.

The Applicants' agent indicated that there had been a change since the other hearing. The Applicants' agent indicated that one of the documents relied upon by the Arbitrator in their decision has since been proven to be a forgery. The Applicants did not provide any evidence to corroborate their claim in this regard.

The Respondents' advocate denied the Applicants' agent's claim that there is proof of forgery.

The parties' representatives disagreed as to whether or not there was a matter before the Supreme Court.

Analysis

Based on the documentary evidence, oral testimony and submissions, and on the balance of probabilities, I find the following.

I find that there is insufficient evidence to satisfy me that the findings made by the Arbitrator in declining jurisdiction have changed. Without any corroborating evidence, I do not find the submissions of the Applicants' agent sufficient to satisfy me that there is jurisdiction to hear the Applicants' application due to a change of circumstances. I accept the submissions of the Respondents' advocate that the Arbitrator's decision declining jurisdiction should be followed, particularly, as this matter deals with the same parties and property. For the reasons given, I decline jurisdiction in this matter.

Conclusion

Based upon the reasons set out above, I decline to accept jurisdiction in this matter.

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: March 03, 2017

Residential Tenancy Branch