



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Summerland Beach RV Park  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ARI

### Introduction

This is an application brought by the Landlord(s) requesting an order for an additional rent increase.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give oral submissions.

All parties were affirmed.

### Issue(s) to be Decided

The first issue I dealt with was whether or not this dispute is linked substantially to a matter that's before the Supreme Court.

## Background and Evidence

The applicants have filed a claim with the Supreme Court of British Columbia, seeking the following orders:

1. A declaration that the written tenancy agreements between the applicant and the respondents are not valid and do not bind the petitioners as the owners of the RV Park in which the respondents reside;
2. An order providing the respondents with 60 days from the date of this order to agree to a new tenancy agreement with the petitioners that properly reflects fair market value for the rental of each of the respondent sites within the RV park;
3. In the alternative, an order that if the respondent and the petitioners are unable to agree as to the fair market value for a particular site, that the issue be referred to the Residential Tenancy Board for determination as to fair market value; and
4. Costs of this proceeding at the level deemed appropriate by this Honorable Court.

The applicants testified that the above claim is still before the Supreme Court and has not been dismissed or withdrawn.

## Analysis

It is my finding that the application in front of me involves a dispute that is linked substantially to the matter that is before the Supreme Court, as both the application to the Court, and the application to the Residential Tenancy Branch are pursuing alleged fair market value increases in the rent for these units.

Pursuant to subsection 51(3) of the Act, the Residential Tenancy Branch has exclusive jurisdiction over disputes arising under the Act; however pursuant to paragraph 51(2)(c),

if there is an application with the BC Supreme Court, this Branch's ability determined to a dispute is suspended pending the outcome of that claim.

Section 51(2)(c) of the Manufactured Home Park Tenancy Act states:

51(2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless

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

This provision provides primacy to the Supreme Court's jurisdiction where jurisdiction overlaps, so long as that matter is substantially linked to the matter that is before the Supreme Court.

It is my decision therefore that I do not have the authority to hear this dispute, while this matter is still before the Supreme Court.

### Conclusion

This application is dismissed in full, with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: April 11, 2017

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Residential Tenancy Branch