



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Applicant for “Other” issues and to recover the filing fee.

Preliminary Issues and Findings

Both parties appeared for the hearing and provided affirmed testimony. Legal counsel for the Applicant also appeared for the hearing and made submissions for the Applicant. The Respondent confirmed receipt of the Application by registered mail and both parties also confirmed receipt of each other’s documentary evidence served prior to this hearing.

At the start of the hearing, legal counsel informed me that the Applicant had been served by the Respondent with a notice to end tenancy for the use of the property under the *Residential Tenancy Act* (the “Act”).

Legal counsel submitted that the Act does not have jurisdiction in this case because the parties have shared ownership of the dispute property. Legal counsel explained that the parties have resided at the address in a marriage like relationship with their child and that a Supreme Court matter under the *Family Law Act* has been filed by the Applicant on February 3, 2017 regarding the ownership of the dispute property. Legal counsel stated that a Certificate of Litigation has been registered against the dispute property. The Applicant provided these documents into evidence. Legal counsel confirmed that the matter was in the process of being scheduled before the Supreme Court for determination.

The Respondent confirmed there was a dispute about the ownership of the property and confirmed that at the time she served the notice to end tenancy to the Applicant under

the Act, she was not aware the Applicant had initiated the Supreme Court action, which is why she served the notice to end tenancy. The Respondent confirmed that she had been served with the paperwork for the Supreme Court proceedings and that her legal counsel was in the process of dealing with that matter.

Section 58(2) (c) of the Act provides that if the director receives an Application, the director must determine the dispute unless the dispute is linked substantially to a matter that is before the Supreme Court. In addition, the Act does not have jurisdiction in a dispute where the parties have an interest in a dispute property that goes beyond a landlord and tenant relationship.

Based on the foregoing evidence before me, I accept the parties' undisputed evidence that this matter involves a jurisdictional issue which is currently before the Supreme Court. Therefore, I find it would be premature to make findings in this matter. As a result, I hereby dismiss the Application with leave to re-apply and decline to make any legal findings in this matter until the Supreme Court matter has been determined.

The parties were informed of this outcome at the conclusion of the hearing and neither party raised any objections to this.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 24, 2017

Residential Tenancy Branch