



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

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

- other unspecified remedies.

One of four tenants, "tenant KM," did not attend this hearing, which lasted approximately 37 minutes. The three other tenants, "tenant AO," "tenant AP" and "tenant IH" (collectively "tenants") as well as the landlord attended the hearing. Both parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed receipt of the tenants' dispute resolution hearing notice and application by way of email. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application.

The landlord confirmed that he did not receive the tenants' written evidence package submitted for this hearing. I received a copy of their written evidence. As this hearing did not proceed on its merits, I decline to make a finding regarding service of the tenants' written evidence package to the landlord.

Issue to be Decided

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

Background and Evidence

Both parties agreed that the landlord filed proceedings in the SCBC regarding collection of a bailiff's bill for \$61,535.00, related to this tenancy. Two of the four tenants, tenant AO and tenant AP, confirmed that they had received the landlord's SCBC documents. Tenant AO stated that she was advised about the proceedings in March 2017, prior to filing the tenants' application on April 3, 2017. The landlord confirmed that the pleadings were filed in the SCBC on February 15, 2017 and both parties stated that the matter has not yet been resolved.

I asked both parties to advise regarding their position as to whether this matter is substantially linked to an SCBC matter, as per section 58 of the *Act*. The landlord initially raised the matter at the hearing, stating that it should be heard at the SCBC, as there is a substantial link. The tenants opposed it being heard at the SCBC, stating that they were negotiating a settlement with the landlord for a lower amount within the RTB jurisdiction of \$25,000.00. They also claimed that they wanted to be released from monetary obligations because their tenancy agreements were for different lengths of time.

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

(a) the claim is for an amount that is more than the monetary limit for claims under the Small Claims Act,

...

(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 from the tenants' application that they are disputing the bailiff's bill produced by the landlord, which is in excess of \$25,000.00. I find that the tenants' application

disputing the landlord's monetary claim, which is in excess of the monetary limit of \$25,000.00, is linked substantially to a matter that is currently before the SCBC, as per sections 58(2)(a) and (c) of the *Act*. I find that the SCBC is the appropriate venue to hear this application.

I advised both parties during the hearing that I decline to exercise jurisdiction over the tenants' application.

As per section 58(4)(a) of the *Act*, if the tenants intend to pursue this application against the landlord, they can file it at the SCBC for a determination.

Conclusion

I decline to exercise jurisdiction over the tenants' 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: May 10, 2017

Residential Tenancy Branch