



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNC, OLC, MNDCT, MNRT, LRE

### Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order that the landlord comply with the Act, regulations and/or tenancy agreement.
- b. An order to cancel the one month Notice to End Tenancy dated September 26, 2017
- c. A monetary order in the sum of \$1000
- d. An order that the landlord pay back to the Tenant the cost of emergency repairs.
- e. An order suspending or setting conditions on the landlord's right to enter the rental unit.

The applicant failed to contact the telephone bridge number at the scheduled time for the hearing. The respondent was present and ready to proceed. The telephone line remained open while the phone system was monitored for ten minutes. The applicant failed to appear. I then proceeded with the hearing in the absence of the applicant.

The applicant testified that the property is on First Nations land and his wife, who is first nations owns the house. He submits the Residential Tenancy Branch does not have jurisdiction.

Policy Guideline 27 includes the following dealing with Jurisdiction:

#### "1. First Nation Lands

##### a. Reserve Lands

Homes or rental units located on "lands reserved for Indians" as defined by section 91(24) of the Constitution Act ("Reserve Lands"), will fall under Federal legislative power. The Courts have held that provincial legislation cannot apply to the right of possession on Reserve Lands. In *Sechelt Indian Band v. British Columbia* the Court held that the Residential Tenancy Act and Manufactured

Home Park Tenancy Act are inapplicable to tenancy agreements on Reserve Lands where the landlord is an Indian or Indian Band<sup>2</sup>

.

The Residential Tenancy Branch, therefore, has no jurisdiction on reserve lands if:

- The landlord is an Indian or Indian Band; or
- The dispute is about use and possession.

The Residential Tenancy Branch may have jurisdiction on reserve lands if:

- The landlord is not an Indian or Indian Band; and
- The dispute is not about use and possession”

I determine the Residential Tenancy Act does not apply and that the Residential Tenancy Branch does not have jurisdiction. As a result I declined to hear this case.

**This decision is final and binding on the parties.**

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: December 12, 2017

---

Residential Tenancy Branch