



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR LRE MNDCT MNRT

### Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;

Both parties were represented at the hearing. The landlord appeared represented by counsel.

### Preliminary Issue – Jurisdiction

Based on the evidence submitted prior to the hearing, a question arose in regards to whether I had jurisdiction regarding this application. Specifically, I needed to determine whether I had jurisdiction to hear this matter, or whether it was a matter substantially linked to a matter before the Supreme Court of British Columbia ("SCBC").

Regarding the issue of jurisdiction, the parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. I confirmed with both parties the evidence packages before me.

### Issue(s) to be Decided

Do I have jurisdiction to consider this application?

### Background and Evidence

There is ongoing litigation pertaining to the subject property before the Supreme Court of British Columbia. The tenant submitted into evidence SCBC pleadings relating to the pending civil claim filed by the tenant on August 14, 2018. Among the relief sought is declaration of ownership of the subject property.

Further, a certificate of pending litigation is registered on the title documents to this rental unit, as acknowledged by both parties. All parties confirmed that the civil claim is still before the SCBC and it has not yet been resolved.

### 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...*

*(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 that the present Application pertains to the same property that is before the SCBC, which involves both parties, and where a determination has yet to be made in regarding who has an interest in this property. As such, I find that the tenants' Application is linked substantially to a matter that is currently before the SCBC, as per section 58(2)(c) of the *Act*. Consequently, I find that I have no jurisdiction to consider this matter.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this 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: September 7, 2018

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Residential Tenancy Branch