



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

On October 16, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a 2 Month Notice to End Tenancy for Landlord Use of Property, and to recover the filing fee for the Application.

The matter was set for a conference call hearing. Representatives for both parties appeared at the hearing.

Preliminary and Procedural Matters

The parties submitted that there is a dispute over the ownership of the rental property and that the dispute is before the Supreme Court of British Columbia.

The Tenant’s counsel provided court documents of the Notice of Civil Claim and Certificate of Pending Litigation.

The Landlord also provided court documents.

Both parties requested that the dispute be withdrawn.

Section 58 (1) of the Act provides:

Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

(a) rights, obligations and prohibitions under this Act;

- (b) rights and obligations under the terms of a tenancy agreement that*
- (i) are required or prohibited under this Act, or*
 - (ii) relate to*
 - (A) the tenant's use, occupation or maintenance of the rental unit,*
or
 - (B) the use of common areas or services or facilities.*

Section 58 (2) of the Act provides that if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless

- (a) the claim is for an amount that is more than the monetary limit for claims under the Small Claims Act,*
- (a.1) the claim is with respect to whether the tenant is eligible to end a fixed term tenancy under section 45.1 [tenant's notice: family violence or long-term care],*
- (b) the application was not made within the applicable period specified under this Act, or*
- (c) the dispute is linked substantially to a matter that is before the Supreme Court.***

Issues to be Decided

- Is the dispute linked substantially to a matter that is before the Supreme Court?

Analysis

Based on the above, and the testimony and evidence of the parties, I find that the dispute before me is linked substantially to matter that is before the Supreme Court. I therefore decline jurisdiction to resolve the dispute.

Conclusion

The Tenant's Application to cancel the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated October 2, 2018, is related to a matter that is before the Supreme Court of British Columbia.

I decline jurisdiction to resolve the dispute. The Tenant's application is dismissed.

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: November 23, 2018

Residential Tenancy Branch