



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MCKIMM & LOTT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDCT

Introduction

This hearing was scheduled to deal with a tenant's Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") for orders for the landlord to comply with the Act, regulations or tenancy agreement; and, a Monetary Order against the landlord for damages or loss under the Act, regulations or tenancy agreement. Both parties appeared or were represented during the hearing.

At the outset of the hearing, I determined it necessary to deal with a number of preliminary and procedural matters, as described below.

Amend application to correct typographical errors

The name of the applicant was amended to correct a typographical error.

The name of the city in which the subject property is located was amended to correct a typographical error.

Jurisdiction

The applicant named a law firm and an individual (referred to in this decision by initials JM) as the respondent landlords in this case. However, the applicant submitted that he is uncertain who the owners of the property are but that the respondents are not his landlords. The applicant submitted that another individual (referred to by initials MB in this decision) is his landlord. MB was present at the hearing, appearing in support of the applicant.

The respondent was also of the position the applicant and respondents do not have a tenancy relationship or tenancy agreement with respect to the subject property. The

respondent submitted that the respondent(s) have a Writ of Possession issued by the Supreme Court of British Columbia for the subject property.

MB stated that there is another proceeding before the Supreme Court scheduled for later this month.

My authority to resolve disputes has been given to me by the Director of the Residential Tenancy Branch. The Director has the authority to resolve disputes under the Residential Tenancy Act. The *Residential Tenancy Act* applies to landlords and tenants with respect to their tenancy agreement, the rental unit and residential property.

Based upon the consistent positions of all parties, I accept that the named parties do not have a tenancy agreement for the subject property and do not have a landlord/tenant relationship. As such, I find the applicant has does not have standing to pursue the named respondents for monetary compensation by way of an Application for Dispute Resolution filed under the Act. Rather, the applicant's claim against the respondents would have to be pursued in the forum with the appropriate authority.

Further, as I informed the applicant during the hearing, I do not have the authority to set aside a Writ of Possession issued by the Supreme Court of British Columbia as the Supreme Court is a higher authority than I.

As to MB's statement that there is another proceeding set for hearing in Supreme Court concerning the subject property, I cannot resolve this dispute pursuant to section 58(2)(c) of the Act. The relevant portions of section 58 are as follows:

- (2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part 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.

In light of the above, I am unsatisfied that the dispute between the applicant and the respondents is a tenancy dispute that falls under the jurisdiction of the Residential Tenancy Branch and I decline to take jurisdiction to resolve this matter.

Conclusion

I have declined to accept jurisdiction to resolve this dispute between the named 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: January 11, 2019

Residential Tenancy Branch