



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property and to recover the filing fee.

Both Parties appeared.

Preliminary and Procedural matter

Determining disputes

Section 58 (0.1) of the Act,

In this section, "**landlord**" includes a purchaser as defined in section 49 who, under section 49 (5) (c), asks a landlord to give notice to end a tenancy of a rental unit.

(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

(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

Section 58 (4) of the Act states, 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

On January 8, 2019, the tenant filed a petition in Supreme Court of British Columbia.

The relief sought in the petition are as follows;

1. A declaration that there exists a valid and binding contract between the parties for a commercial lease of the property.
2. A declaration that the defendants evict the plaintiffs, the Defendant will be unjustly enriched.
3. An Order that the Defendants, their servants and or agents cease and desist from evicting or otherwise removing the Plaintiffs, the Plaintiffs business operation, or the Plaintiff's possession from the premises located at ...

In this case the landlords have acknowledged that they have been served with the petition, regarding the subject property.

Since the issue of today's hearing is substantially link to a matter before the Supreme Court, I decline to hear the matter until such time as the petition is heard and a decision made.

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: January14, 2019

Residential Tenancy Branch