



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

For the landlord: MNRL, FFL  
For the tenant: MNDCT, RPP

### Introduction

This hearing dealt with the landlord's and tenant's Applications for Dispute Resolution ("applications") seeking remedy under the *Residential Tenancy Act* ("Act"). The landlord is seeking a monetary order of \$35,000.00 for unpaid rent or utilities, and to recover the cost of the filing fee. The tenant has applied for a monetary order of \$35,000.00 for compensation for damage or loss under the Act, regulation or tenancy agreement, and for the return of their personal property.

On January 8, 2019, this matter commenced and after 67 minutes, was adjourned. An Interim Decision dated January 9, 2019 was issued, which should be read in conjunction with this decision. On February 19, 2019, the tenant and legal counsel for the landlord DG ("counsel") attended the reconvened hearing and after 24 minutes, the matter was adjourned for the second time as the tenant had not yet been served with the landlord's Supreme Court application. Interim Decision #2 dated February 19, 2019 was issued, which should also be read in conjunction with this decision.

On April 5, 2019, the tenant and legal counsel for the landlord DG ("counsel") attended the reconvened hearing. The tenant affirmed that she has now been served with the landlord's Supreme Court application. Counsel stated that the parties have been granted a court date of May 2, 2019 before the New Westminster Supreme Court.

## Preliminary and Procedural Matters

I will first determine if I have jurisdiction to consider the matters before me. Section 58 of the *Act* states in part:

### **Determining disputes**

#### **58**

(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.**

[Emphasis added]

Given the evidence before me, I find that the matters before me are linked substantially to a matter that is before the Supreme Court. In reaching this finding, I have considered that counsel has stated that a court date has been scheduled for May 2, 2019 in the New Westminster Supreme Court to consider the landlord's claim, and that the landlord has also requested the Supreme Court to consider the tenant's claim as part of the cross-application before me.

Therefore, I find the matters before me are within the exclusive jurisdiction of the Supreme Court of British Columbia. Accordingly, I decline jurisdiction to consider these matters pursuant to section 58(2)(c) of the *Act*.

### Conclusion

The matters before me are within the exclusive jurisdiction of the Supreme Court of British Columbia. Accordingly, I decline jurisdiction to consider these matters pursuant to section 58(2)(c) of the *Act*.

This decision will be emailed to both parties at the email addresses confirmed during the hearing.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 5, 2019

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Residential Tenancy Branch