



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MASHINCHI INVESTMENT
LTD. MILLENNIUM ESTATE HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD FFT

Introduction

This hearing dealt with the tenant's application pursuant to the Residential Tenancy Act (the "Act") for a return of the security deposit and authorization to recover the filing fee.

Both parties attended the hearing and were given a full opportunity to be heard, to make submissions, to call witnesses and to cross-examine one another. The corporate entities were represented by agents and counsel.

Preliminary Issue – Identifying Parties

At the outset of the hearing the parties made submissions regarding the correct legal names of the corporate entities and identifying the entities that are party to this application. The applicant gave evidence that the legal name of the tenant has changed and requested that the style of cause be amended to reflect this change.

The respondent provided their correct legal name and confirmed that they are the appropriate party to be named as respondents. The parties agreed that a third corporate entity that was originally named as a respondent by the applicant is not a party to the matter at hand.

Pursuant to section 64(3)(c) of the *Act* and Rule of Procedure 4.3 I amend the tenant's application to update the names of the parties as found on the first page of this decision.

Preliminary Issue - Jurisdiction

The respondent raised the issue of whether I had jurisdiction regarding this application. Specifically, the respondent gave evidence that there is an ongoing matter before the Supreme Court of British Columbia (the “SCBC”) and that the present matter is substantially linked to the matter before the courts.

A Notice of Civil Claim was filed by the landlord on May 19, 2019 and names the tenant as the respondent. In the Notice of Claim the landlord seeks damages for a breach of an agreement granting the tenant exclusive use of the rental suite and 9 other residential addresses.

The applicant submits that the relationship between the parties is one of landlord and tenant, that this is a residential tenancy and therefore under the jurisdiction of the Branch.

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 a property that is one of the properties at issue before the SCBC, involves the same parties as named in the SCBC action, and where a determination has yet to be made in regards to damages stemming from a breach of an agreement between the parties. As such, I find that the tenant’s Application is linked substantially to a matter that is currently before the SCBC. Therefore, 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: May 27, 2019

Residential Tenancy Branch