



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OLC, PSF, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord's agent ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he had permission to speak on behalf of the landlord named in this application. This hearing lasted approximately 7 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution and notice of hearing. In accordance with sections 89 and 90 of the Act, I find that the landlord was duly served with the tenant's application and notice of hearing.

At the outset of the hearing, the tenant confirmed that he was in the process of moving out of the rental unit. He said that he did not require the relief in his application.

### Preliminary Issue – Jurisdiction to hear Matter

At the outset of the hearing, both parties agreed that this was a commercial tenancy and that they had an ongoing, pending matter before the Supreme Court of British Columbia.

Section 4(d) of the *Act*, outlines a tenancy in which the *Act* does not apply:

- 4 This Act does not apply to*  
*(d) living accommodation included with premises that*  
*(i) are primarily occupied for business purposes, and*  
*(ii) are rented under a single agreement,*

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.*

I find that this application is excluded by section 4(d) of the *Act*, as both parties agreed that the rental unit was primarily occupied for business purposes.

I also find that the tenant's application is linked substantially to a matter that is currently before the SCBC, as per section 58(2)(c) of the *Act*.

For the above reasons, I find that this is not a matter within the jurisdiction of the RTB. Accordingly, I decline jurisdiction over the tenant's application. I informed both parties of my decision verbally during the hearing.

I notified both parties that they could pursue any claims at the Provincial Court of British Columbia or the Supreme Court of British Columbia, if they wished to do so.

Conclusion

I decline jurisdiction over the tenant's application. I make no determination on the merits of the tenant's application.

Nothing in my decision prevents either party from advancing their claims before a Court of competent jurisdiction.

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: August 27, 2019

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Residential Tenancy Branch