



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDL-S, MNRL-S

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Preliminary Issue – Jurisdiction

Counsel for the landlord submits that only the security deposit is linked in this matter. Counsel submits that the tenant would not be entitled to any of the claims as made and would not exceed the \$35,000.00 monetary limit that matters under the Residential Tenancy Act can address.

The tenant submitted a copy of Petition to the Court for a hearing date in December 2019. The tenant has submitted documentation that he is seeking \$98,778.00 from the landlord.

Analysis

Section 58(2)(c) of the Act stipulates that I must resolve an Application for Dispute Resolution unless the dispute is linked substantially to a matter that is before the Supreme Court.

Although counsel submits that the tenant would not be successful in his application, the tenant is seeking an amount that far exceeds the \$35000.00 limit the Act addresses. On the basis of the testimony of the tenant and the copy of Petition to the Court, which has been filed with the Supreme Court of British Columbia and scheduled to be heard on December 12 and 13, 2019, I find that this matter is substantially linked to a matter that is before the Supreme Court of British Columbia. I find that as this matter is before the Supreme Court of British Columbia, I do not currently have authority to adjudicate this matter.

Conclusion

I HEREBY DECLINED TO HEAR this matter, for want of jurisdiction and the application is dismissed, without leave to reapply.

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: November 14, 2019

Residential Tenancy Branch