



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL OPR FFL

Introduction

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

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55 of the *Act*;
- a Monetary Order for unpaid rent, pursuant to section 67 of the *Act*; and
- recovery of the cost of the filing fee for this application from the tenant, pursuant to section 72 of the *Act*.

Both parties attended the hearing, represented by their respective legal counsel.

Preliminary Issue - Dispute Linked to Matter Before the British Columbia Supreme Court

At the outset of the hearing, both parties agreed that a dispute regarding an ownership interest in the property was presently before the British Columbia Supreme Court ("BCSC"). Both parties acknowledged that a Notice of Civil Claim had been filed with the BSCS on November 19, 2019.

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.*

The landlord's Application for Dispute Resolution pertains to the same property that is before the BCSC. The matter before the BCSC, as outlined in the Notice of Civil Claim, involves both parties, and is substantially linked to the potential ownership interest of the tenant with regard to the property in question. A determination has yet to be made regarding who has an ownership interest in this property.

As such, I find that, at this time, the landlord's Application for Dispute Resolution is linked substantially to a matter that is currently before the BCSC, and as per section 58(2)(c) of the *Act*, it is beyond the jurisdiction of the Residential Tenancy Branch to consider this Application until the issue of ownership of the property has been determined by the BCSC.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this Application. Therefore, the landlord's Application is dismissed its entirety.

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: December 12, 2019

Residential Tenancy Branch