



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CANADIAN NATIONAL RELOCATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MND, MNSD, MNDC, FF

### Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* (“the Act”).

On October 3, 2019, the Tenant applied for a monetary order for the return of double a security deposit and for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement.

On October 17, 2019, the Landlord applied seeking a monetary order for unpaid rent; damage to the rental unit; and to keep all or part of the security deposit.

The matter was set for a conference call hearing. The Landlord’s agent (“the Landlord”) and Tenant attended the hearing. The Tenant was assisted by legal counsel. I introduced myself and the participants.

### Preliminary and Procedural Matters

The Landlord testified that there is a civil claim involving the parties that is before the Supreme Court.

The Landlord and Tenant provided a 10-page Notice of Civil Claim stamped b and dated February 3, 2020 at the New Westminster Court Registry. The document names the Landlord as the plaintiff and the Tenant as the respondent. The document indicates the claim is related to a tenancy agreement at the dispute address provided in the Landlord’s and Tenant’s applications for dispute resolution. The Notice of Civil Claim indicates that the Landlord is seeking an amount owing of \$52,786.28.

The Landlord and Tenant agreed that the matter is before the Supreme Court.

Section 58 (1) of the Act provides:

*Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:*

- (a) rights, obligations and prohibitions under this Act;*
- (b) rights and obligations under the terms of a tenancy agreement that*
  - (i) are required or prohibited under this Act, or*
  - (ii) relate to*
    - (A) the tenant's use, occupation or maintenance of the rental unit, or*
    - (B) the use of common areas or services or facilities.*

Section 58 (2) of the Act provides that 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.***

#### Issues to be Decided

- Is the dispute linked substantially to a matter that is before the Supreme Court?

#### Analysis

Based on the above, the testimony and evidence of the parties, I find as follows:

I find that the claims in the cross-application disputes before me are related and are linked substantially to matter that is before the Supreme Court.

Therefore, in accordance with section 58(2)(c) of the Act, I decline jurisdiction to resolve the dispute.

Conclusion

The Landlord's application for dispute resolution under the *Act* and the Tenant's application for dispute resolution under the *Act*, are related to a matter that is before the Supreme Court of British Columbia.

I decline jurisdiction to resolve the dispute.

The Landlord's application and the Tenant's application are dismissed.

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: February 04, 2020

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Residential Tenancy Branch