



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC OPT

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (the Act). The tenant has applied for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and in their details of dispute, the tenant writes, “I request an order of possession in my favor.”

Pursuant to section 64(3)(c) of the Act, I amend the tenant’s application to include codes OPT as I find it is clear from the details of dispute that the tenant is seeking an order of possession.

The tenant, counsel for the tenant AE (tenant’s counsel), counsel for the landlord AC (landlord’s counsel), and two agents for the landlord DC and RH (agents) attended the teleconference hearing. The parties were affirmed and an opportunity to ask questions was provided to the parties.

Neither party raised any concerns regarding the service of documentary evidence or their ability to review that evidence prior to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

Firstly, the parties confirmed their email addresses at the outset of the hearing. The parties also were advised that the decision would be emailed to the parties.

Secondly, landlord’s counsel submits that the parties are in the middle of a Judicial Review (JR) matter that is before the Supreme Court and has been adjourned until March 30, 2020. There is no dispute that one of the two matters before the Supreme

Court as part of the JR relates to the tenant's application to have the Order of Possession granted to the landlord on May 27, 2019, set aside.

The parties were advised that I find this application to be an attempt by the tenant to seek an order of possession during the midst of a JR, of which the tenant is seeking to set aside an order of possession before the Supreme Court and to which, the Supreme Court has exclusive jurisdiction. As a result, the parties were advised that I decline jurisdiction to consider this dispute. I have made this decision pursuant to section 58(2)(c) of the Act, which states:

Determining disputes

58(2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless

(c) the dispute is linked substantially to a matter that is before the Supreme Court.

Although tenant's counsel submits that the tenant's application is related to an argument that the landlord has reinstated the tenancy and is not linked to the JR before the Supreme Court, I disagree with tenant's counsel for the reason stated above.

Conclusion

I decline to hear this dispute due to lack of jurisdiction as noted above.

This decision will be emailed to the parties as noted above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 4, 2020

Residential Tenancy Branch