



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **MNRL-S, FFL, OPR**

### **Introduction**

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

- An order of possession pursuant to section 55;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee from the tenants pursuant to section 72.

Both parties were represented by counsel at the hearing.

### **Preliminary Issue – Jurisdiction**

At the outset of the hearing both parties submitted that there is ongoing litigation regarding this dispute address before the Supreme Court of British Columbia ("SCBC") and therefore the Branch does not have jurisdiction to adjudicate this matter.

The parties submitted into evidence copies of the SCBC pleadings including the Notice of Civil Claim filed by the tenants on August 14, 2019, and the Response to Civil Claim and Counterclaim filed by the landlords. Among the relief sought by the parties is declaration of ownership of the subject property, a writ of possession and monetary award for unpaid rent.

Further, a certificate of pending litigation is registered on the title documents to this rental unit, as acknowledged by both parties. Both parties confirmed that the civil claim is still before the SCBC and it has not yet been resolved.

### Analysis

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.*

It is clear that the present Application pertains to the same property that is before the SCBC, which involves both parties, and where a determination has yet to be made in regarding who has an interest in this property. As such, I find that the present Application is linked substantially to a matter that is currently before the SCBC, as per section 58(2)(c) of the *Act*. Consequently, I find that I have no jurisdiction to consider this matter.

### Conclusion

I decline to hear this matter as I have no jurisdiction to consider this application.

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: March 6, 2020

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Residential Tenancy Branch