



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Canadian Imperial Bank of Commerce  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC, PSF, LRE, AS

### Introduction, Preliminary and Procedural Matters-

This hearing was convened as a result of the applicant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement;
- an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act;
- an order suspending or setting conditions on the landlord's right to enter the rental unit; and
- authority to assign or sublet the rental unit;

The applicant and the legal counsel for the respondent appeared and the issue of jurisdiction was discussed, due to the written submissions of the parties.

### Issue(s) to be Decided

Does the Act apply to this dispute?

If so, is the applicant entitled to the relief sought?

### Background and Evidence

In addition to section 94 of the Act, the applicant's application additionally seeks compliance with the UN Sustainable Develop Goals, the law of the applicant's deceased husband's Last Will and Testament, the Trustee Act (Spouse Protection Act), the UN Convention to Eliminate all Forms of Discrimination against Women and the International Convention to eliminate all forms of racial discrimination.

The subject property is the former permanent residence of the applicant and her deceased spouse, which the applicant claimed provided her with the property in Trust for the remainder of her life.

The respondent's evidence showed that the subject property was the subject of foreclosure proceedings on October 19, 2018 by the respondent, the mortgage holder, due to the failure to make mortgage payments by the estate of the applicant's deceased spouse.

By approval of the Supreme Court of British Columbia, the subject property was ultimately listed for sale and was sold on or about December 9, 2019, according to the evidence, and the applicant refused to vacate.

On March 9, 2020, the Supreme Court of British Columbia granted the respondent a writ of possession permitting the bailiff to remove the applicant and her personal property, and on March 19, 2020, the bailiff obtained vacant possession of the subject property.

In response to my inquiry, the applicant confirmed that she was removed by the bailiff from the subject property and no longer lives at the subject property.

### Analysis and Conclusion

Before proceeding to examine and consider the merits of the applicant's application, I must determine whether this application is under the jurisdiction of the Residential Tenancy Act.

Section 58(2)(c) of the Act states that the director must determine the dispute contained in an application for dispute resolution unless the dispute is linked substantially to a matter that is before the Supreme Court.

Based on the undisputed evidence that the Supreme Court has granted a writ of possession in favour of the respondent, I have determined that the issues in the applicant's application, such as legal possession of the subject property, are matters before the Supreme Court of British Columbia.

Additionally, I find the applicant has presented insufficient evidence to show that a tenancy ever formed between the parties.

Therefore, in light of the above, I decline to find jurisdiction to resolve this dispute.

The applicant is at liberty to continue to seek the appropriate legal remedy to her disputes.

Conclusion

I do not find the Residential Tenancy Act applies to this dispute and I have declined jurisdiction.

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: April 28, 2020

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Residential Tenancy Branch