



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* to cancel a notice to end tenancy for landlord's use of property, pursuant to s. 49 of the *Residential Tenancy Act*.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves. As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Upon consideration of the documentary evidence, a preliminary issue was raised and repeated at the hearing. The tenant was of the position that I did not have jurisdiction to resolve this dispute.

Issues to be decided

Does the *Residential Tenancy Act* apply to the parties and do I have jurisdiction to resolve this dispute? If jurisdiction is established, has the landlord issued the notice to end tenancy in good faith?

Background and Evidence

The background facts are generally undisputed. The tenancy started on August 15, 2017. The monthly rent is \$475.00 due on the first of each month. The rental unit is a stand alone one-bedroom self contained structure located on acreage.

The parties agreed that in October 2019, the landlord had served the tenant with a notice to end tenancy and the tenant applied to dispute it. The landlord was granted an order of possession. The tenant has made application in the Supreme Court, for a judicial review of the decision to grant the landlord an order of possession. The matter is awaiting a hearing date.

Analysis

Section 27 of *Residential Tenancy Policy Guideline* addresses the jurisdiction of the *Residential Tenancy Act*. This section states that if a dispute is linked substantially to a Supreme Court action, then the arbitrator may decline jurisdiction.

Based on the sworn testimony of both parties and the documentary evidence filed by both parties, I find that this matter is currently in litigation before the Supreme Court.

Based upon the above, I find that this claim is a dispute linked substantially to a matter that is before the Supreme Court, and that jurisdiction lies with that court. Accordingly, pursuant to section 58(2)(c) of the *Act*, the Residential Tenancy Branch director, and I as the director's delegate, have no authority to determine this dispute.

Conclusion

I find that this dispute is substantially linked to a matter that is before the Supreme Court and therefore I dismiss the tenant's 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: August 14, 2020

Residential Tenancy Branch