



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the applicants' application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued to them by the respondent; and
- recovery of the filing fee.

The applicants, the respondent, and the respondent's legal counsel attended, and the issue of jurisdiction was discussed, due to my review of the written submissions of the parties.

Issue(s) to be Decided

Does the Act apply to this dispute?

If so, are the applicants entitled to the relief sought?

Background and Evidence

The applicant, MB, is the daughter of the deceased owner, or former owner, of the subject property here, EB. The respondent was the spouse of EB, and was said to be estranged from EB at the time of his death on December 29, 2019.

The applicants' evidence indicated that the ownership of the subject property here is currently in pending litigation before the Supreme Court of British Columbia. The pending litigation is the probate of the estate of EB. By order of the Supreme Court on

July 22, 2020, MB was appointed to administer the estate, which included the subject property. MB submitted a copy of the appointment.

The respondent filed a Notice of Family Claim in the Supreme Court of British Columbia on December 5, 2019, which included a request for an order relating to family property. Filed into evidence by the respondent's legal counsel was a copy of the Notice of Family Claim.

Analysis and Conclusion

Before proceeding to examine and consider the merits of the applicants' 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, I have determined that the issues in the applicant's application, such as ownership of the subject property, comprises a part of pending probate litigation before the Supreme Court of British Columbia.

Conclusion

In light of the above, I find I do not have authority under the Act to decide this dispute and I therefore decline to accept 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: August 28, 2020

Residential Tenancy Branch