



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The applicant applied for cancellation of the One Month Notice to End Tenancy for Cause (the Notice), pursuant to section 47 of the Act.

Both parties attended the hearing and had a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The respondent was assisted by advocate LV. Witness NM for the respondent also attended.

A Notice of Family Claim in the Supreme Court of British Columbia was submitted into evidence.

### Preliminary Issue – Jurisdiction

The Notice of Family claim indicates on June 30, 2020 the applicant filed a family claim against the respondent and the family claim is related to the rental unit.

The applicant affirmed he is not a tenant. The respondent affirmed the family claim in the Supreme Court of British Columbia will not be successful and the unit that is occupied by the applicant must not be occupied by anyone.

Residential Tenancy Branch Policy Guideline 28 states:

Section 58(3) of the RTA and 51(3) of the MHPTA provide that a court does not have and must not exercise any jurisdiction in respect of a matter that must be submitted to the director for dispute resolution, except if:

- the claim is for an amount that is more than the monetary limit for claims under the Small Claims Act
- the dispute is linked substantially to a matter that is before the Supreme Court

Based on the Notice of Family claim, I find this matter is substantially linked to a matter that is before the Supreme Court of British Columbia.

### Conclusion

In accordance with Section 58(2)(c) of the Act, I find I have no jurisdiction to hear this matter.

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: September 18, 2020

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Residential Tenancy Branch