



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Homax Real Estate Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL
 CNC, FFT

Introduction

This hearing was convened by way of conference call concerning applications made by the tenants and by the landlord. The tenants have applied for an order cancelling a notice to end the tenancy for cause and to recover the filing fee from the landlord for the cost of the application. The landlord has applied for an Order of Possession for cause and to recover the filing fee from the tenants.

Two agents for the landlord and one of the tenants attended the hearing, and the tenant also represented the other named tenant.

At the commencement of the hearing, the tenant advised that this matter is substantially before the Supreme Court and has provided a copy of a Statement of Claim which was filed with the Supreme Court in Vancouver Law Courts on March 5, 2021. Part of the relief sought in that action states:

“(f) An interim Order of this Court staying any proceedings between the Plaintiffs and the Defendants for Dispute Resolution of the Tenancy Termination Notice served on the Plaintiffs by the Defendant on February 23, 2021 pending the outcome of these British Columbia Supreme Court proceedings;”

The evidence provided for this hearing includes a One Month Notice to End Tenancy for Cause dated February 23, 2021, and the landlord's application for an Order of Possession refers to that notice to end the tenancy.

The *Residential Tenancy Act* states, in part:

(2) Except as provided in subsection (4) (a), the director must not determine a dispute if any of the following applies:

(d) the dispute is linked substantially to a matter that is before the Supreme Court.

(4) The Supreme Court may, on application regarding a dispute referred to in subsection (2) (a) or (d),

(a) order that the director hear and determine the dispute, or

(b) hear and determine the dispute.

(4.1) If the Supreme Court hears and determines a dispute under subsection (4)

(b), the Supreme Court may make any order that the director may make under this Act.

Having reviewed the Supreme Court Statement of Claim, I am satisfied that the matter before me today is substantially before the Supreme Court, and I decline to hear and decide on either of the applications.

Since neither party has been successful with the applications before me, I decline to order that either party recover the filing fees from the other party.

Conclusion

For the reasons set out above, I decline to hear and decide on the applications of the landlord and of the tenant.

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: June 14, 2021

Residential Tenancy Branch