



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC-MT

### 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 applicants applied for:

- cancellation of the One Month Notice to End Tenancy for Cause (the Notice), pursuant to section 47;
- an extension of the timeline for disputing the Notice, pursuant to section 66.

Applicants ST and VT and respondent AB attended the hearing. The applicants were assisted by advocate YB and the respondent was assisted by advocate JS. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing the attending parties affirmed they understand it is prohibited to record this hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

### Preliminary Issue – Jurisdiction

ST affirmed he does not have a tenancy agreement with AB. ST's brother DT and AB jointly own the rental unit and there is a dispute related to the rental unit before the Supreme Court of British Columbia.

The applicants submitted a prior Residential Tenancy Branch decision dated August 16, 2021 (the file number is referend on the cover page of this decision):

The applicant testified that there is no tenancy agreement between the parties and no tenant-landlord relationship or an obligation to pay monthly rent. The applicant submits

that the dispute property is owned jointly by the named respondent and their brother DT who attended the hearing. The property is the subject of an ongoing dispute before the courts of British Columbia between the respondent and DT.

AB affirmed there is a dispute before the Supreme Court of British Columbia and the parties are trying to reach an agreement in that dispute so that the applicants leave the rental unit.

Section 58(2) of the Act states:

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

- (a) the amount claimed, excluding any amount claimed under section 51 (1) or (2) [tenant's compensation: section 49 notice], 51.1 [tenant's compensation: requirement to vacate] or 51.3 [tenant's compensation: no right of first refusal], for debt or damages is more than the monetary limit for claims under the Small Claims Act;
- (b) the claim is with respect to whether the tenant is eligible to end a fixed term tenancy under section 45.1 [tenant's notice: family violence or long-term care];
- (c) the application for dispute resolution was not made within the applicable time period specified under this Act;
- (d) the dispute is linked substantially to a matter that is before the Supreme Court.

Residential Tenancy Branch Policy Guideline 27 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 testimony offered by both parties, 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)(d) 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: February 01, 2022

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Residential Tenancy Branch