



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNDCL-S, MNRL-S, FFL

This hearing was reconvened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord’s legal counsel appeared. The Tenants did not appear.

The Landlord’s Legal Counsel clarifies that the judicial review noted in the Interim Decision is not solely in relation to unpaid rent but is actually in relation to whether or not the house with two separate suites is under one tenancy with the named Tenants or is under two separate tenancies with different tenants in one of the suites. Legal Counsel confirms that the claims for damages and return of the security deposit are made for the entire house under one tenancy with the Tenants. Legal Counsel confirms that the judicial review is still in front of the Court.

Section 58(2)(d) of the Act provides that the director must not determine a dispute if the dispute is linked substantially to a matter that is before the Supreme Court. Based on the undisputed submissions that the matter of whether there is one or two tenancies for the house is before the BC Supreme Court and as the Landlord’s claims herein are for claims under one tenancy for both suites, I find the Landlord’s claims are linked

substantially to the matter before the Supreme Court and therefore may not be determined. For this reason, the application is dismissed in its entirety with leave to reapply pending the outcome of the BC Supreme Court judicial review. Leave to reapply is not an extension of any limitation dates.

Conclusion

The application is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: April 7, 2022

Residential Tenancy Branch