



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNL, FFT**

Introduction

This hearing dealt with the Tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. Cancellation of the Landlords' Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") pursuant to Sections 49 and 62 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlords' Legal Counsel and one Tenant attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

At the outset of the hearing, the Tenant advised they did not want to come to a mutual agreement to end the tenancy.

The Landlords' Legal Counsel advised that this matter was submitted to the British Columbia Supreme Court ("BCSC") on July 20, 2022, and was approved on an urgent/rush basis. The Landlords uploaded documentary evidence confirming this case. Legal Counsel said they would be serving the Tenants with the BCSC documents in the next few days.

Section 58 of the Act states the following:

Determining disputes

58 ...

- (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.*

The Landlords petition to the court is clearly in regard to the same property and for the same remedy in part as sought in their Two Month Notice. Pursuant to Section 58(2)(d) of the Act, I find that the application of the Tenants to cancel the Landlords' Two Month Notice is linked substantially to a matter that is before the Supreme Court.

As the Tenants are not successful in their claim, I do not grant them recovery of the application filing fee.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this application.

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

Dated: July 21, 2022

Residential Tenancy Branch