



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an adjourned *ex-parte* application regarding the above-noted tenancy. The applicant applied for:

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, pursuant to section 46;
- a monetary order for compensation for damage or loss under the Act, Residential Tenancy Regulation or tenancy agreement, pursuant to section 67; and
- an authorization to recover the filing fee for this application, under section 72.

Both parties attended the hearing. 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 the parties are not allowed 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 \$5,000.00."

The respondent affirmed the parties do not have a tenancy agreement and purchased the rental unit together as partners of the company Squadra Capital Limited Partnership. The respondent submitted a civil claim before the British Columbia Supreme Court (BCSC) linked to the rental unit. The notice of civil claim states:

#### Part 2: RELIEF SOUGHT

[...]

2) An order mandating [respondent] and [applicant] to be equally responsible for all payments associated with the Squadra Capital Limited Partnership office property at [rental unit's address] moving forward until the property is sold.

The respondent submitted into evidence a settlement offer dated June 03, 2022 for the civil claim:

It is our position that Squadra must be wound up, the property sold, and the contents of the Maple Fund distributed to Squadra's investors as soon as possible. We are confident that, if we are able to resolve some of the more contentious issues cooperatively, the remainder of issues can be achieved on an expedited basis.

Our understanding is that the most significant impediment to resolution is the proportionate ownership of the property located at [rental unit's address]. The Property was purchased in April of 2020 by [respondent] and [applicant] for \$681,000. The purchase price was funded by a down payment of \$121,122.00 by [respondent] and \$28,147.89 by [applicant]. The balance of the purchase price was funded by a mortgage in the amount of \$544,800.00.

The respondent affirmed there is also a family claim before the BCSC related to the rental unit.

The applicant affirmed that the parties are the owners of Squadra Capital Limited Partnership, the applicant is the sole owner of the rental unit and the BSCS civil action is related to business matters regarding Squadra Capital Limited Partnership not linked to 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 Notice of Civil Claim and the June 03, 2022 settlement offer, 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.

The applicant must bear the cost of the filing fee, as the applicant was not successful.

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: August 15, 2022

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Residential Tenancy Branch