



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide testimony, present evidence and make submissions on the preliminary matter of jurisdiction. No issues were raised with respect to service of the application and evidence submissions.

Issues

Do I have jurisdiction under the Act to make a decision on the application before me?

Background and Evidence

The applicant was served with a 10 Day Notice on May 21, 2022. The applicant submits that she is not a tenant but rather was in a common law relationship with the respondent. The applicant’s counsel submits that this is a common law family matter a notice of family claim was initiated on September 29, 2021. Division of the subject property is central to the Supreme Court proceeding. A copy of the certificate of pending litigation was submitted into evidence.

The respondent acknowledged the Supreme Court proceedings were related to this dispute. The respondent was requesting an adjournment until the Supreme Court matter is resolved.

The applicant objected to the adjournment request and was seeking the matter be dismissed due to a lack of jurisdiction.

Analysis

Before making any finding on the merits of the claim, I must determine if I have jurisdiction under the Act to make a decision on the application before me.

Section 51(2)c of the Act requires that the director must resolve an application for dispute resolution which it accepts under this section unless the dispute is linked substantially to a matter that is before the Supreme Court.

I find that this matter does not fall within the jurisdiction of the Act as it is substantially linked to a matter that is currently before the Supreme Court. I make no findings on the merits of the application or the respondents adjournment request.

Conclusion

I find that I do not have jurisdiction over this matter as it is currently before the Supreme Court. The application is dismissed with leave to reapply.

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: October 11, 2022

Residential Tenancy Branch