



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on October 31, 2022. The Tenant applied for an order of possession pursuant to section 47 of the Manufactured Home Park Tenancy Act (the Act).

The Tenant attended the hearing on his own behalf. The Landlord attended the hearing and was accompanied by JW, a witness. All in attendance provided a solemn affirmation at the beginning of the hearing.

### Preliminary Issue – Jurisdiction

The parties confirmed they attended a previous resolution hearing on September 27, 2022. The previous hearing was convened to address cross-applications filed by the parties. In a decision issued on the same date, the arbitrator determined that the property was not a manufactured home site and that the Act did not apply. As a result, the arbitrator declined jurisdiction to consider the applications filed by the parties. The related file numbers are provided above for ease of reference.

Further processes were initiated in relation to the original decision. Specifically, on September 28, 2022, the Tenant submitted a Request for Correction and an Application for Review Consideration. Both were dismissed for the reasons set out in the decisions.

During the hearing on December 1, 2022, the parties acknowledged the Tenant submitted a Petition to the Court (the Petition) seeking, among other relief, an order that the decision of the arbitrator dated September 27, 2022, be set aside. The Landlord testified that she attended a hearing on November 18, 2022, and that the Court ordered that the Tenant's application was dismissed. The Landlord believes that the matter is concluded and that the Tenant must now vacate the property. However, the Tenant testified that his lawyer has not yet advised him of the outcome of the hearing on November 18, 2022.

Based on the contradictory evidence of the parties provided during the hearing, I was unable to determine whether or not any of the issues raised in the Petition are still before the Supreme Court. Accordingly, the parties were given until 2:00 p.m. on December 1, 2022, to submit copies of Court documents related to the Petition. In particular, the parties were asked to provide a copy of any orders made during the hearing on November 18, 2022.

Following the hearing on December 1, 2022, the Tenant submitted the following documentation, much of which exceeded what was requested:

- A copy of a Petition to the Court dated November 10, 2022;
- Copies of correspondence from the Tenant to the Landlord (undated);
- A copy of an email from the Tenant to the Landlord dated November 7, 2022;
- A copy of correspondence from SK, legal counsel (undated);
- A partial copy of an email exchange between the Tenant and the Landlord dated October 14, 2022; and
- Copies of correspondence relating to the Tenant's decision to represent himself in place of legal counsel.

The Landlord submitted a copy of a printout showing the details of an order made after an application on November 18, 2022, as follows: "ORDER – Notice of filed on November 10th, 2022: The application is dismissed." The printout also sets out the chronology of documents submitted in response to the Petition.

However, an Order made on November 10, 2022, a copy of which was submitted into evidence by the Landlord, states: "The application of the petitioner to extend this interim injunction beyond November 21, 2022 shall be heard on November 18, 2022 at the Vancouver Law Courts..."

Based on the evidence before me, I find it is more likely than not that the Order granted on November 18, 2022 addressed only an application to extend the interim injunction granted on November 10, 2022. As a result, I find I am not satisfied that the matter of the Tenant's request for the other relief sought in the Petition, namely the request for an order setting aside the arbitrator's decision dated September 27, 2022, is not still before the Supreme Court.

Section 51(2) of the Act confirms the director must not determine a dispute if it is likely substantially to a matter that is before the Supreme Court. The language in the Act is mandatory. In this case, I find it is more likely than not that the matter before me – whether or not the director has jurisdiction to consider disputes between these parties – is linked substantially to a matter that is before the Supreme Court. Therefore, I decline to determine the dispute. The Tenant's application is dismissed with leave to reapply as appropriate.

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

Dated: December 6, 2022

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Residential Tenancy Branch