



# 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 cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

#### Landlord:

- an order of possession for landlord’s use of property pursuant to section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

#### Tenant:

- cancellation of a Two Month Notice to End Tenancy For Landlord’s Use of Rental Property, pursuant to section 49 (the Two Month Notice);
- 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 an opportunity to make submissions on the preliminary matter of jurisdiction.

### **Issues**

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

### **Background and Evidence**

On November 1, 2020 the parties entered into an agreement titled Residential Lease Agreement with Option to Purchase. On August 24, 2022 the landlord served the tenant with a Two Month Notice on the ground that the landlord intends to occupy the rental unit himself.

The tenant submits the Residential Tenancy Branch does not have jurisdiction to hear this matter as she has filed a proceeding against the landlord in the Supreme Court of

British Columbia for breach of contract to purchase. A copy of the Supreme Court Notice of Civil Claim registered by the tenant on August 8, 2022 was submitted as evidence.

The landlord acknowledged the Supreme Court proceedings but argued the Residential Tenancy Branch had jurisdiction to determine the tenancy aspect of the dispute.

### 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 58(2)d 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. The central issue of the applications before me is whether or not the landlord is entitled to an order of possession for a property. The tenant has initiated a proceeding in the Supreme Court in relation to option to purchase component of the lease agreement.

### Conclusion

I find that I do not have jurisdiction over this matter as it is currently before the Supreme Court. Both applications are 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: January 30, 2023

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Residential Tenancy Branch