



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding LADY MINTO HOSPITAL FOUNDATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

On July 11, 2022 and July 13, 2022, the Tenants who reside in different units at the dispute address submitted Applications for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) asking that the Landlord comply with the Act, Regulation, or Tenancy Agreement. The matters involve the same Landlord and are related to the same issue. The Files were joined to be heard together as a conference call hearing.

The Landlord and the Tenants appeared at the hearing. The Landlord and Tenants were both assisted by legal counsel. The hearing process was explained and the participants were asked if they had any questions. Both parties were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

Preliminary and Procedural Matters

The Landlord’s counsel stated that the Respondent LMHF is not a Landlord under the Act. He submits that LMHF purchased the residential property, Seabreeze Inn, in March of 2022. He submits that the Landlord did not inherit tenancies under the Act because unit #110 was living under an emergency shelter agreement and unit #114 was a hotel guest. He submits that the Landlord does not have tenancy agreements with the applicants and the Landlord has not received rent payments or security deposits.

The Landlord’s counsel submitted that the Landlord has started an action against the two occupants for trespass, because they are not tenants and also for monetary compensation in excess of \$35,000.00.

The Landlord’s counsel stated that section 58(2) of the Act is clear that the director must not determine a dispute if the amount claimed for debt or damages is more than the

monetary limit for claims under the Small Claims Act; or if the dispute is linked substantially to a matter that is before the Supreme Court.

The Landlord's counsel provided substantial documentary evidence in support that the matter is before the Supreme Court. The Landlord's counsel requested that the applications be dismissed with leave to reapply. The Landlord's counsel stated that the issue is quite complex and he expects to need 5 days of hearing time if the RTB hears the matter.

Legal counsel for the two Tenants confirmed that the issue before me is substantially linked to a matter before the Supreme Court. Counsel stated that the first issue before the Supreme Court will be to hear whether the RTB should determine the dispute. Counsel stated that it is inappropriate for the RTB to be involved in this matter that is currently before the Supreme Court. The Tenant's counsel provided substantial documentary evidence in support that the matter is before the Supreme Court.

The Tenant's counsel requested that the applications be adjourned and immediately rescheduled rather than dismissed with leave to reapply so that the matter can proceed quickly if the Supreme Court orders the director to hear and determine the dispute.

Decision

I accept the submissions and evidence before me that the issue contained in the two applications is substantially linked to a matter that is before the Supreme Court. I decline jurisdiction to determine the dispute.

I have considered the submissions from counsel on whether the applications should be dismissed with leave or adjourned and immediately re-scheduled. I do not find it reasonable to adjourn the hearing and use up multiple days of hearing time, on a possibility that the Supreme Court will order that the director hear and determine the dispute.

The two 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: March 28, 2023