



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL
CNC, CNL-MT, LRE, FFT

Introduction

This hearing was convened by way of conference call concerning applications made by the landlords and by the tenant which have been joined to be heard together.

The landlords have applied for an order of possession for landlord's use of the property.

The tenant has applied for:

- an order cancelling a notice to end the tenancy for cause;
- an order cancelling a notice to end the tenancy for landlord's use of the property;
- more time to dispute a notice to end the tenancy for landlord's use of the property;
- an order limiting or setting conditions on the landlords' right to enter the rental unit; and
- to recover the filing fee from the landlords for the cost of the application.

All named landlords attended the hearing, and one of the landlords represented the other 2 landlords, and were accompanied by a translator. The tenant also attended, accompanied by an assistant for the tenant's Legal Counsel, who was not able to attend due to flight delays.

One of the landlords and the tenant gave affirmed testimony, and the parties were given the opportunity to question each other.

During the course of the hearing, the tenant testified that this matter is currently before the Supreme Court of British Columbia, and a copy of a Notice of Claim and Certificate

of Pending Litigation have been provided as evidence for this hearing. The landlord indicated that the tenant was never on title, and the matter cannot go to probate even though the tenant's husband passed away. The landlords also have a Notice of Claim filed with the Supreme Court of British Columbia.

Analysis

I have reviewed the Notice of Civil Claim and Certificate of Pending Litigation, which indicate that the tenant sought a declaration that the property is held by the defendant landlords is held by them on either an express, resulting and/or a constructive trust for the plaintiff; an order transferring and conveying to the plaintiff the property or their interest in the property, and other relief.

The landlord submitted that the deceased tenant had a verbal contract to rent the property, which is disputed by the tenant.

Because the matter of the subject property is primarily before the Supreme Court, I decline jurisdiction.

Conclusion

For the reasons set out above, I decline jurisdiction to hear or decide on either application made by the parties herein.

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 03, 2023

Residential Tenancy Branch