



# 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 by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 47;
2. An Order for the provision of services and facilities - Section 65;
3. An Order for compliance - Section 62; and
4. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### **Preliminary Matters**

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the compliance and provision of services and facilities claims are not related related to the matter of whether the tenancy will end, I dismiss these claims with leave to reapply.

The Landlord’s Witness states that they served two evidence packages to Tenant AC in person on April 25, 2023. Tenant AC did not appear at this hearing and the other two Tenants who appeared state that they did not receive this material because they had moved out of the unit. Given the Landlord’s undisputed evidence of service of their evidence package on Tenant AC I accept that Tenant AC received the packages.

### **Issue(s) to be Decided**

Is the dispute over the notice to end tenancy linked to a matter that is before the Supreme Court?

### Background and Evidence

The Landlord asserts that the dispute brought by the Tenants over the Landlord's notice to end tenancy is not under the jurisdiction of the Act. The Landlord has commenced proceedings at the Supreme Court to obtain a writ of possession of the unit. These proceedings were filed on April 25, 2023. Tenant DS and LG state that they have already moved out of the unit and cannot speak for the plans of Tenant AC.

### Analysis

Section 58(2)(d) of the Act provides that the director must not determine a dispute if the dispute is linked substantially to a matter that is before the Supreme Court. Given the undisputed evidence that the proceedings commenced at the Supreme by the Landlord are in relation to possession of the unit, and as the current dispute is in relation to whether or not the Tenants are entitled to remain in possession of the unit, I find that the dispute herein is linked substantially to a matter that is before the Supreme Court. I therefore decline to consider the Tenants' claim to cancel the notice to end tenancy and dismiss this claim and the claim for recovery of the filing fee.

### Conclusion

The claims to cancel the notice to end tenancy and for recovery of the filing fee are dismissed.

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

Dated: May 04, 2023

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Residential Tenancy Branch