



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was scheduled to convene at 11:00 a.m. on July 20, 2023 concerning an application made by the tenants seeking an order cancelling a notice to end the tenancy and to recover the filing fee from the landlord for the cost of the application.

One of the named tenants attended the hearing and represented the other named tenant. However, the line remained open while the telephone system was monitored for in excess of 10 minutes and no one for the landlord joined the call.

The tenant indicated that the matter is primarily before the Supreme Court, and has provided a copy of a Notice of Civil Claim filed in the Supreme Court of British Columbia on February 23, 2023.

The *Residential Tenancy Act* states:

58 (2) Except as provided in subsection (4) (a), the director must not determine a dispute if any of the following applies:

(a) the amount claimed, excluding any amount claimed under section 51 (1) or (2) [*tenant's compensation: section 49 notice*], 51.1 [*tenant's compensation: requirement to vacate*] or 51.3 [*tenant's compensation: no right of first refusal*], for debt or damages is more than the monetary limit for claims under the [Small Claims Act](#);

(b) the claim is with respect to whether the tenant is eligible to end a fixed term tenancy under section 45.1 [*tenant's notice: family violence or long-term care*];

(c) the application for dispute resolution was not made within the applicable time period specified under this Act;

(d) the dispute is linked substantially to a matter that is before the Supreme Court.

Considering the evidence provided and the submissions of the tenant, I find that this dispute is linked substantially to a matter that is before the Supreme Court, and I decline jurisdiction.

Conclusion

For the reasons set out above, I decline jurisdiction to determine the dispute.

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: July 20, 2023

Residential Tenancy Branch