



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

### **Introduction**

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This hearing dealt with two Applications for Dispute Resolution filed under the *Residential Tenancy Act* (the “Act”). The matter was set for a conference call.

The Tenant’s first Application for Dispute Resolution was made on October 6, 2023. The Tenant applied to Cancel a One-Month Notice to End Tenancy for Cause, and to recover their filing fee.

The Tenant’s second Application for Dispute Resolution was made on October 18, 2023. The Tenant applied to Cancel a 10-Day Notice to End Tenancy for Non-Payment of Rent, Cancel a One-Month Notice to End Tenancy for Cause, and to recover their filing fee.

Both the Applicant’s Counsel and the Respondent’s Counsel attended the hearing. Both parties were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### **Preliminary Matter**

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During the hearing, the parties agreed that the Applicant had filed for a hearing before the Supreme Court of British Columbia (the “Supreme Court”) in relation to this tenancy. A copy of the Amended Notice of Civil Claim, submitted to that court dated July 13, 2023, was submitted into documentary evidence for these proceedings.

## Analysis

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Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Section 58(2d) of the Act stipulates that I must resolve an application for dispute resolution unless that dispute is linked substantially to a matter that is before the Supreme Court, stating the following:

### ***Determining disputes***

*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.*

I accept the agreed-upon testimony of these parties that the matter that is before me in these proceedings, is also before the Supreme Court

Therefore, I must decline to proceed in all the matters contained in the Applicant's applications as they are substantially linked to a matter that is before the Supreme Court.

## Conclusion

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I find that I do not have the authority to adjudicate this matter, at this time, as it is substantially linked to a matter before the Supreme Court of British Columbia. Therefore, I must dismiss the Applicant's application.

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 16, 2024

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Residential Tenancy Branch