



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, RR, PSF, OLC, FFT

Introduction

The Tenants have filed two applications for dispute resolution concerning their use of the basement of the rental unit. A prior RTB decision (file no. on cover sheet) concerned the Landlord's One Month Notice to End Tenancy based upon the Tenants' use of the basement allegedly in violation of the parties' tenancy agreement. The Arbitrator's decision canceled the One Month Notice. The Landlord appealed that Decision to the B.C. Supreme Court on or about July 5, 2023. That case remains pending before the Supreme Court.

Subsequent to the Landlord's petition to the B.C. Supreme Court, the Tenants filed these present applications for dispute resolution regarding issues that substantially concern the Tenants' use of the basement of the rental unit.

Section 58(2) of the Act provides, in relevant part: "the director must not determine a dispute if.... (d) the dispute is linked substantially to a matter that is before the Supreme Court."

In this case, the issue pending before the B.C. Supreme Court substantially and materially relates to, and arises from, the Tenants' use of the basement in the rental unit. In accordance with section 58(2)(d) of the Act, I decline to hear and determine the Tenants' applications. I make no findings of fact or law regarding the Tenants' applications.

The parties were advised that these applications could be adjourned or dismissed with leave to reapply. Tenant M.M. stated at the hearing that given the length of time a matter may remain pending before the B.C. Supreme Court, he was amenable that the Tenants' applications be dismissed with leave to reapply as opposed to the matter being

adjourned on a continuing basis until such time as the Supreme Court issues its decision, or the matter is otherwise judicially determined.

Conclusion

The Tenants' applications are dismissed, with leave to reapply.

This decision is issued 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 18, 2024

Residential Tenancy Branch