

DECISION

Introduction

This hearing dealt with an application filed by both parties pursuant to the Residential Tenancy Act (the “Act”):

JH applied for:

- cancellation of the Landlord's Two Month Notice to End Tenancy for Landlord's Use of Property (Two Month Notice) under section 49 of the Act
- an order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

WB applied for:

- an Order of Possession based on a Two Month Notice to End Tenancy for Landlord's Use of Property (the Two Month Notice) pursuant to sections 49 and 55 of the Act
- authorization to recover the filing fee for this application from the tenant pursuant to section 72 of the Act

JH and WB attended the hearing.

Analysis

After review of the application and evidence submitted prior to the hearing, I determined it was necessary to decide whether I have jurisdiction to determine this dispute. The parties were advised and provided testimony regarding the same.

Evidence was provided showing that RH entered into a fixed-term tenancy with RB on October 1, 2023. WB is not named on the tenancy agreement and testified that they were unaware that the tenancy agreement existed until after RB was incarcerated.

WB testified that they have taken over RB's responsibilities as landlord because RB is incarcerated. WB testified that they co-own the rental property with RB and are named on the title. WB submitted an "Early Renewal Fixed Rate Mortgage Loan Agreement" which names them as a "Borrower" as evidence to support this.

WB testified that they are currently in Supreme Court proceedings regarding their divorce from RB, and the division of property including the rental property is in question.

Section 58(2)(d) states that the Director must not determine a dispute if the dispute is substantially linked to a matter that is before the Supreme Court.

Based on the testimony and evidence of JH and WB, I find that the applications of both JH and WB are substantially linked to the Supreme Court matter regarding the division of marital property. For this reason, and in accordance with section 58(2)(d) of the Act, I decline jurisdiction to determine this dispute.

Conclusion

I decline jurisdiction to determine this 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 Act.

Dated: May 21, 2024

Residential Tenancy Branch