

DECISION

Introduction

This hearing dealt with the Tenant's first Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act

This hearing also dealt with the Tenant's second Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- the return of the security deposit from the Landlord under section 38 of the Act.

The Tenant attended the hearing for the Tenant.

The Landlord attended the hearing for the Landlord.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

The Landlord acknowledged receipt of the Tenant's first Application for Dispute Resolution and evidence via personal service at the Landlord's place of residence. I find that the Landlord was served with the Tenant's first Application for Dispute Resolution and evidence in accordance with sections 88 and 89 of the Act.

The Tenant testified that he personally served his second Application for Dispute Resolution and evidence to a tenant at the rental property, and not to the Landlord's residence. The Landlord testified that he did not receive the second Application for Dispute Resolution and evidence. I find that the Landlord was not served with the second Application for Dispute Resolution in accordance with section 89(1) of the Act. The Tenant's second Application for Dispute Resolution is therefore dismissed with leave to reapply for failure to serve in accordance with section 89(1) of the Act.

The Landlord did not submit any evidence for consideration.

Preliminary Issue

Both parties agree that the Tenant and Landlord never resided at the same property and never shared a kitchen or a bathroom.

Both parties agree that in a previous hearing, the Landlord was granted an Order of Possession for non-payment of rent and the Tenant's Application for Review Consideration was dismissed without leave to reapply. The file number for the previous decision (the Previous Decision) is located on the cover page of this Decision.

The Tenant testified that he filed for Judicial Review of the Previous Decision and that the matter will be heard later this month. The Tenant testified that this monetary claim is based on damages and loss to personal property that occurred due to the haste of the bailiff driven eviction which he believes will be overturned in the Judicial review.

Section 58(2)(d) of the Act states that the director must not resolve a dispute if the dispute is linked substantially to a matter that is before the Supreme Court. Based on the Tenant's undisputed testimony, I find that this matter is substantially linked to a matter that is before the Supreme Court as the outcome of the Judicial Review will likely have an impact on the outcome of this Decision. I therefore decline jurisdiction to hear this matter at this time.

Conclusion

I decline jurisdiction to hear the first Application for Dispute Resolution because it is substantially linked to a matter before the Supreme Court of British Columbia.

The second Application for Dispute Resolution is dismissed, with leave to reapply for failure to serve in accordance with section 89(1) of the Act.

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: October 8, 2024

Residential Tenancy Branch