

DECISION

Dispute Codes DRI, MNDC and FF

Introduction

By application of October 27, 2009, the tenant seeks to dispute a rent increase of which he was notified by letter of March 31, 2008 and a Monetary Order for the return rent payments beyond that paid at the time the notice came into effect.

Issues(s) to be Decided

This application requires a decision on whether the tenant is entitled to return of rent from August 2008 to date.

Background and Evidence

This tenancy started on June 9, 2007 and rent is \$2,657.40 per month.

During the hearing, the tenant submitted a copy of a letter from the landlords dated March 31, 2008 notifying him that the rent would be increased from \$2,500 per month to \$2,750 per month beginning on July 1, 2008. The tenant submits that, as the increase was not on the prescribed form, he is entitled to return of the amount of the increase, \$75 per month, for each of the months since it came into effect.

The tenant gave evidence that the letter of March 31, 2008 was submitted into evidence in a previous hearing in October 2009 in which the tenant successfully challenged a similar notice of rent increase dated April 16, 2009 which was set aside for want of form.

Analysis

Res judicata is a doctrine of law which prevents litigants or parties to a dispute resolution hearing from bringing the same case forward again after it has been decided upon. This principle not only prohibits claims based on the exact circumstances previously heard, but it also prohibits matters under the same subject matter which the parties might properly have brought to the case previously heard.

In the present matter, I find that the tenant should properly have brought the notice of March 31, 2008 forward to be adjudicated at the same time as that of April 16, 2009 and that the present application, therefore, must be dismissed as *res judicata*.

As noted at item 1.2 under the Rules of Procedure, such rules exist to “ensure a consistent, efficient and just process for resolving disputes,” and repeated applications on the same subject matter defeats these objectives.

I find that the tenant has already had a hearing on the same subject matter and failed to bring forward the earlier and identical claim.

Conclusion

The application is dismissed without leave to reapply.

Dated: February 26, 2010

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