



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNDC Money Owed or Compensation for Damage or Loss

Introduction

This Dispute Resolution hearing was convened to deal with an application by the tenant for a supplementary monetary order in compensation for the landlord not fully complying with a previously issued monetary order. In the alternative, the tenant was seeking enforcement of the previous monetary order because the landlord had been persistently late in making the periodic payments ordered to the tenant

Both parties were in attendance.

Preliminary Matter

I found that there had been a prior determination on the matter of money owed by the landlord to the tenant and therefore, I am bound by that finding.

Section 77 of the *Act* which states that, except as otherwise provided in the *Act*, a decision or an order of the director is final and binding on the parties. The tenant's claims were officially determined at the previous hearing and a monetary order was already issued to the tenant. Therefore I found that the principle of *res judicata* applied, meaning that the matter had already been decided and was therefore final and binding on the parties. I find that the issue of what money was owed had been resolved and I do

not have the authority to over-rule or make any kind of alternate finding nor issue a different order in regards to the same matter determined in the previous decision.

In regards to the tenant's intention to have the unpaid monetary order enforced, this is not a matter that is within the function nor the jurisdiction of the Act and I have no statutory authority to make any orders enforcing the previously issued monetary order. For enforcement purposes, an application to provincial Small Claims Court should be made and the tenant would be advised to seek legal advice on the matter as I find that this application cannot proceed.

Conclusion

Based on the testimony and evidence presented during these proceedings, I find that the issue in question is not a matter that can be further determined under the Residential Tenancy Act and I hereby decline jurisdiction.

In light of the above, the tenant's application is dismissed without leave.

April 20, 2010

Date of Decision

Dispute Resolution Officer