



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes FF, MNDC, RR

Introduction

A substantial amount of **documentary evidence, photo evidence, and written arguments** has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for a monetary order in the amount of \$14,400.00, for money owed or compensation for damages or loss under the act, regulation or tenancy agreement, and a request to allow the tenants to reduce the rent for repairs, services or facilities agreed upon but not provided. The applicant is also requesting recovery of his \$100.00 filing fee.

Decision and reasons

It is my decision that I will not proceed with a hearing on this claim, because the issues have already been dealt with in two previous hearings, and therefore the issues are considered “Res Judicata” (matters that has already been decided)

The applicant filed a \$4,830.00 claim for damages, based on virtually the same information as in this application. The application was heard on April 7, 2010, and the application was dismissed in full **without leave to reapply**.

The applicant then filed a second application, which again dealt with a lot of the same issues as the first application and the present application, and at that hearing the parties came to an agreement **in satisfaction of all claims**.

When I asked the tenant why after having already filed two applications on virtually the same issues, he was filing again he stated that he had missed the first hearing because he was away, and not all of the issues were re-dealt with at the second hearing.

Res Judicata” applies not only to points upon which the adjudicator was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belongs to the subject litigation and which the parties, exercising reasonable diligence, might have brought forward at the time.

In this case most of the points claimed on today's application were part of a previous judgment, and any that were not should have been brought forward at one of the previous hearings, because they are certainly related issues.

Conclusion

This application is again dismissed in full without leave to reapply, because the matter is “Res Judicata”. The tenant is barred from filing any further applications for loss and damages that are alleged to have arisen out of this tenancy prior to today's date.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 22, 2011.

Residential Tenancy Branch