



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order to retain all or part of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to return of the security deposit?

Background and Evidence

The Tenant submits that a previous Decision, dated April 23, 2012, dealt with the dispute over the return of the security deposit. It is noted that this Decision determined that the Tenant was entitled to its return and a monetary order was issued to the Tenant.

Analysis

The legal principle of ***Res judicata*** prevents a party from pursuing a claim that has already been decided. Where a disputed matter is identical to or substantially the same as the earlier disputed matter, the application of *res judicata* operates to preserve the effect of the first decision or determination of the matter. As the dispute in relation to the security deposit has already been determined in a previous decision, I find that *res judicata* applies and the Landlord’s application must be dismissed.

Conclusion

The Landlord's application is dismissed.

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: June 25, 2012.

Residential Tenancy Branch