



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNR, OLC

Introduction

The tenant's original application pursuant to the *Residential Tenancy Act* (the *Act*) was for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order regarding a disputed additional rent increase pursuant to section 43.

The tenant's application for an order regarding a disputed additional rent increase was addressed in a December 7, 2011 hearing and in a December 22, 2011 decision.

The tenant and two other tenants of the same landlord who were similarly affected by decisions of DROs applied for judicial review of the DROs' decisions. In those decisions, the DROS declined jurisdiction in the tenants' applications to dispute an additional rent increase. In a September 18, 2012 decision of The Honourable Mr. Justice Masuhara, the Supreme Court dismissed the petitioners' application for judicial review.

The legal principle of *res judicata* establishes that I cannot consider the tenant's application to dispute the rent increase sought for this tenancy by the landlord for 2012. The issues before me at this hearing were the tenant's application to cancel the 10 Day Notice and to seek an order requiring the landlord's compliance with the *Act*.

Neither party attended at the appointed time set for the hearing, although I waited until 1:41 p.m. to enable them to participate in this hearing scheduled for 1:30 p.m.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the dispute resolution officer. The dispute resolution officer may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, **in the absence of any evidence or submissions, I order the application dismissed with liberty to reapply.** I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

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: November 08, 2012

Residential Tenancy Branch

