



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNDC, FF, O

Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlords' application for:

- an Order of Possession for unpaid rent and for cause pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover their filing fee for this application from the tenants pursuant to section 72; and
- other unspecified remedies.

While the female Respondent (the tenant) attended the hearing by way of conference call, the Applicants did not, although I waited until 9:40 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m.

Rule 10.1 of the Rules of Procedure provides as follows:

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

Analysis

At the hearing, the female Respondent (the tenant) testified that another Arbitrator appointed under the *Act* considered the tenants' application to cancel a Notice to End Tenancy issued by the landlords on March 4, 2013. At that time, the landlord(s) requested an Order of Possession if the tenants' application were dismissed.

Although the tenants have not yet received the previous Arbitrator's decision, I informed the tenant that the previous Arbitrator has issued a final and binding decision to dismiss the tenants' application to cancel the landlords' Notice to End Tenancy and has provided

the landlords with an Order of Possession. As such, I advised the tenant that the landlord's current application before me for an Order of Possession has already been decided. In accordance with the legal principle of *res judicata*, I am prevented from considering the landlords' current application for the same remedy as was provided by the previous Arbitrator in his March 4, 2013 decision.

I note that the landlords' application for dispute resolution clearly stated that the landlords' interest was in obtaining vacant possession of the rental unit. The landlords' failure to attend this hearing is consistent with their stated sole interest in obtaining an end to this tenancy. **In the absence of the applicant's participation in this hearing, I order the landlords' applications for a monetary award and the recovery of their filing fee dismissed without liberty to reapply.**

Conclusion

I dismiss the landlords' application for an Order of Possession as a final and binding decision has been issued by the previous Arbitrator regarding that portion of the landlords' current application. I dismiss the landlords' application for a monetary award and recovery of their filing fee without leave to reapply.

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: March 07, 2013

Residential Tenancy Branch

