



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order for unpaid rent for the period December 1, 2012 to June 1, 2013.

The hearing was conducted via teleconference and was attended by the landlord; one of the tenants and their witness.

At the outset of the hearing I asked the landlord to clarify why she had claimed \$25,000.00 in this Application when her previous hearing dealt with unpaid rent in the amount of \$12,500.00 for the same rental period. She could not provide an explanation and corrected the amount of her claim to \$12,500.00.

The parties submitted into evidence a copy of a dispute resolution decision issued on May 28, 2013. The decision was issued as a result of a hearing conducted by a different Arbitrator based on cross Applications.

The landlord, at that time, had applied for an order of possession for unpaid rent and for landlord's use of property; for a monetary order for unpaid rent; and to recover the filing fee. The Arbitrator granted the landlord an order of possession to the landlord.

The Arbitrator considered the tenant's assertion that the parties had a rent to own agreement and found there was insufficient evidence to support this claim and she subsequently accepted jurisdiction on the matters. She later considered the landlord's testimony that the tenants had rented both sides of the duplex and noted that the landlord had provided a copy of a tenancy agreement for the side of the duplex the tenants lived in but not for the other side; she stated there was no other written tenancy agreement but the Arbitrator did not make any findings relating to the tenants obligations to pay rent for the other duplex.

The Arbitrator also considered the landlord's testimony seeking \$12,500.00 in unpaid rent for the period from December 2012 to April 2013 and failure to pay rent for the month of May 2013. The Arbitrator also considered the tenant's testimony that he believed he had overpaid rent either by \$2,000.00 or by \$9,000.00 depending if the arbitrator determined that rent was either \$2,000.00 per month or \$2,500.00 per month.

The Arbitrator wrote: "I find that, although it is clear that rent is owed for December, 2012, to April 2013 the landlord provided insufficient evidence of the amount of rent that is owed." The Arbitrator dismissed that portion of the landlord and granted leave to reapply.

As the Arbitrator made a ruling on rent owing for the period of December 2012 to April 2013 for the amount of \$12,500.00 I find that those matters are considered *res judicata*. *Res judicata* is the doctrine that an issue has been definitively settled by a judicial decision. The three elements of this doctrine, according to Black's Law Dictionary, 7th Edition, are: an earlier decision has been made on the issue; a final judgement on the merits has been made; and the involvement of the same parties.

As such, I cannot consider the landlord's claim for any rent as they have already been adjudicated and a final judgement has been made on the merits of the claim. It is not clear to me why the previous Arbitrator granted the landlord leave to reapply for the same matters that are before me today.

Conclusion

For the reasons noted above, I dismiss the landlord's Application in its entirety.

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: September 18, 2013

Residential Tenancy Branch

