



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have requested compensation for damage or loss under the Act, return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants.

The respondent, B.E., confirmed receipt of the application within a reasonable period of time.

The respondent submitted evidence which was not given to the tenants; that submissions was set aside.

The parties agreed that the respondent had acted as agent for the landlord in the past. The tenants confirmed that on November 5, 2013 they attended a cross-application hearing with the landlord, S.B., and that a mutually settled agreement had been reached in relation to the same matters before me today. In support of that mutual agreement the arbitrator issued a monetary Order in the sum of \$1,200.00 to the tenants.

The tenants have not been able to enforce the monetary Order; the landlord is living in Alberta and they have been told that BC Small Claims Court does not have jurisdiction in Alberta. The tenants also do not have any method of serving the landlord as they do not know where he is residing.

The tenants and respondent were in agreement that the individual who is responsible for payment is the landlord named in the original application filed by the tenants (file 250373 and 812518.) The tenants are frustrated and were under the impression that another hearing, naming the landlord's agent, could result in payment by the landlord.

I explained res judicata, which is a legal concept that bars applicants from a rehearing, change or variation of a matter already heard and decided upon. I explained am bound by the earlier decision; which has already considered the same matter included in the tenant's application today. Res judicata is a rule in law that a final decision, determined by an Officer with proper jurisdiction and made on the merits of the claim, is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent application involving the same claim.

Therefore, I find that the matter has been previously heard and decided.

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: April 22, 2014

Residential Tenancy Branch

