



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This was a hearing with respect to an application by the tenants for a monetary order and an order for the return of a security deposit. The hearing was conducted by conference call. The named tenant and the landlords called in and participated in the hearing.

Issue(s) to be Decided

Are the tenants entitled to a monetary award and if so, in what amount?
Are the tenants entitled to the return of their security deposit?

Background and Evidence

There has been an earlier dispute resolution proceeding regarding this tenancy. In a decision dated November 26, 2013 the landlord was granted a monetary award for unpaid rent in the amount of \$1,557.00 and as well for utilities in the amount of \$199.01 and \$527.17 for cleaning and debris removal from the rental unit. The total award to the landlord inclusive of the filing fee was the sum of \$2,333.18. The landlord was awarded the tenants' \$375.00 security deposit in partial satisfaction of the monetary award and was granted a monetary order for the net amount of \$1,908.18.

The tenants applied to review this decision on the ground that the decision was obtained by fraud. Their application for review consideration was dismissed by a Review Consideration decision dated December 17, 2013,

On June 12, 2014 the tenants commenced this proceeding wherein they have claimed for the return of their security deposit, to dispute amounts they were charged for cleaning and to claim the amounts charged by the landlord for utilities on the basis that the landlord improperly charged the tenants for utilities they did not consume.

Analysis and conclusion

The matters raised by the tenants in this proceeding were decided in favour of the landlords in the earlier proceeding, as set out in the November 26, 2013 decision. The tenants attended that hearing and presented their arguments, but the matters were decided in favour of the landlords. The tenants applied to review the decision because they disagreed with the outcome. Their review was denied. The tenants have now filed their own application seeking to re-litigate the matters already decided in the earlier proceeding

I find that the tenants' claims in this proceeding are barred pursuant to the doctrine of *res judicata*. The doctrine of *res judicata* provides, in brief, that where a matter is adjudicated by a court of competent jurisdiction, the claimant is required to bring his whole case in the original claim and will not be permitted to re-open the same subject of litigation against the same respondent. The tenants advanced the same arguments based on the same evidence in the earlier proceeding. The arbitrator found in favour of the landlord and in a second decision another arbitrator denied their application for review consideration

Conclusion

The tenants' claims in this application have already been determined in favour of the landlord in a final and binding decision. This application is therefore dismissed 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: November 04, 2014

Residential Tenancy Branch

