



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNDC, FF

### Introduction

This hearing was scheduled for 2:30 p.m. on today's date via teleconference call to deal with a landlord's application for a Monetary Order for damage to the rental unit; unpaid rent or utilities; and, damage or loss under the Act, regulations or tenancy agreement. The landlord did not appear at the hearing despite leaving the teleconference call open for at least 10 minutes. The tenant appeared and acknowledged receipt of the landlord's application.

The tenant submitted that the landlord had previously filed a monetary claim against him for virtually the same things. The tenant pointed to a dispute resolution decision issued on December 18, 2014 and the file number has been referred on the cover page of this decision. In that decision the landlord was awarded a small portion of his claim and the balance of his claims against the tenant were dismissed.

The tenant also pointed to other previous dispute resolution hearings involving the parties where the tenant was successful and provided Monetary Orders to enforce against the landlord. The tenant has been to court a number of times in an attempt to enforce the Monetary Orders issued in his favour.

The Act provides that a decision issued under the Act is final and binding. This provision is in keeping with the principle of res judicata. The Act also provides that common law applies.

The doctrine of 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.

With respect to res judicata, the courts have found that:

“...the Court requires the parties to that litigation to bring forward their

whole case, and will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of res judicata applies, except in special cases, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation and which the parties, exercising reasonable diligence, might have brought forward at the time.”

Considering the landlord did not appear at the hearing and the tenant did and the tenant made submissions that demonstrated the landlord has made the same or similar claims against the tenant previously, **I dismiss the landlord’s application against the tenant.** The landlord is not at liberty to file another application against the tenant for damage to the unit, unpaid rent or utilities; or, damage or loss under the Act, regulations or tenancy agreement.

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: August 04, 2015

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Residential Tenancy Branch

