



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Stonewater Ventures #110 Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

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### Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for:

- An extension of the time allowed for enforcement of the Order of Possession issued in a settlement agreement that took place during a dispute resolution hearing on September 21, 2016

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the relevant submitted documentary evidence by the other party. As both parties attended and had no issues regarding the submitted documentary evidence, I find that both parties have been properly served as per sections 81 and 82 of the *Act*.

### Analysis

The applicant LM sought an extension of time to vacate the rental site following the issuance of the order of possession that was issued as a result of the settlement reached at the previous dispute resolution hearing. A September 21, 2016 dispute resolution hearing between the parties concluded with a settlement agreement that provided the respondent with an order of possession for November 30, 2016. The applicant attempted to submit evidence that he could not meet this deadline because a medical issue which had occurred in October 2016 prevented him from physically moving his belongings.

*Res judicata* prevents a plaintiff from pursuing a claim that already has been decided and also prevents a defendant from raising any new defense to defeat the enforcement of an earlier judgment. It also precludes re-litigation of any issue, regardless of whether the second action is on the same claim as the first one, if that particular issue actually was contested and decided in the first action.

The previous Arbitrator allowed the parties to enter into settlement discussions pursuant to section 56(2) of the *Act*, the parties resolved their dispute by mutual agreement and agreed to a November 30, 2016 Order of Possession. I therefore find that this current application is *res judicata*, meaning the matter has already been conclusively decided and cannot be decided again.

The tenant's application is dismissed as I do not have the jurisdiction to consider a matter that has already been the subject of a final and binding decision by another arbitrator appointed under the *Act*.

#### Conclusion

The tenant's application for an extension of the November 30, 2016 Order of Possession is **dismissed**.

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: December 28, 2016

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Residential Tenancy Branch