

DECISION

Dispute Codes CNR, MT

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for unpaid rent and for more time to make the application.

Preliminary matters

At the start of the conference call both parties agreed the Residential Tenancy Branch has previously issued a decision and Order of Possession dated March 16, 2017 on this tenancy. The decision and order are a result of the Landlord's application under the Direct Request process to end the tenancy for unpaid rent. The Tenant said he believed he had made an agreement with the Landlord that if he paid the rent they would agree to continue the tenancy. The Tenant said the rent has been paid.

The Landlord said he agreed not to serve the Order of Possession dated March 16, 2017 with an effective vacancy date of 2 days after service, if the Tenant signed a Mutual Agreement to End the Tenancy and an Addendum to that agreement which would end the tenancy May 1, 2017. The Landlord said this was to give the Tenant more time to move out. The Landlord said the Tenant signed the agreement and paid the rent, but the Tenant did not move out on May 1, 2017. As a result the Landlord said they served to Order of Possession on May 9, 2017 as the Landlord wants to end the tenancy.

The Tenant said that he filed this application because he wants to continue the tenancy and he has paid the rent.

The Landlord said this matter has already been decided and the Landlord wants to end the tenancy. The Landlord said they will hire bailiffs on June 8, 2017 to enforce the Order of Possession.

The Tenant requested more time to find alternative housing for his family.

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The Landlord said the Tenant knew the tenancy was ending since March 16, 2017 which is ample time to find new accommodations. The Landlord said they are not willing to continue a tenancy with the Tenant.

The Arbitrator explained to the parties, that he cannot re-hear, change or vary a matter already heard and decided upon as he is bound by the earlier decision, under the legal principle of *res judicata*. *Res judicata* is a rule in law that a final decision, determined by and Officer with proper jurisdiction and 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.

In light of the above, I am unable to and I have not reheard the Tenant's application due to the previous Arbitrator's findings in the decision and Order of Possession dated March 16, 2017.

Conclusion

I find this matter has already been decided upon by an Adjudicator on March 16, 2017. As a result, the Tenant's application dated April 20, 2017 cannot be re-heard due to the principle of *res judicata*. Based on the above, I dismiss the Tenant's application as this matter has already been decided upon.

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: May 25, 2017.

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