



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding H.E. ROOMS INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF OPC

### Introduction

This matter dealt with an application by the landlord for an Order of Possession for Cause pursuant to section 47 of the *Act* and for a return of the filing fee pursuant to section 72 of the *Act*.

Following opening remarks, I informed the landlord that I had no standing to hear this matter as the landlord's 1 Month Notice to End Tenancy issued on May 10, 2017 had already been ruled on by an arbitrator during a hearing before the *Residential Tenancy Branch* on June 26, 2017. During this hearing, it was determined by the arbitrator that this 1 Month Notice was cancelled and the tenancy was ordered to continue until it was ended in accordance with the *Act*.

The legal principle of *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.

I therefore find that this current application is *res judicata*, meaning the matter has already been conclusively decided and cannot be decided again.

The landlord'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

As I am without jurisdiction to consider this matter, the landlord's application is dismissed without leave to reapply. The final and binding decision issued on June 26, 2017 pertaining to this tenancy remains in effect.

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 9, 2017

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Residential Tenancy Branch