



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This participatory hearing was convened after the issuance of a June 27, 2017, interim decision by an Adjudicator. The Adjudicator determined that the landlord's application could not be considered by way of the Residential Tenancy Branch's (RTB) direct request proceedings, as had been originally requested by the landlord. The Adjudicator reconvened the landlord's application to a participatory hearing for the following:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear this matter.

The landlord and both tenants attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another.

The landlord testified that she sent the tenants each a copy of the notice of this adjourned hearing by registered mail on August 11, 2017. The landlord provided a copy of the Canada Post Tracking Numbers to confirm these registered mailings and the tenants confirmed that they received the notices. In accordance with section 89 of the *Act*, I find that the tenants were duly served with the notice of this adjourned hearing.

Preliminary Issue(s)

The landlord and the tenants both provided, in their written evidence, a copy of a decision dated June 19, 2017, (file numbers referenced above on style of cause page) in which an arbitrator made a decision and issued an Order of Possession and a Monetary Order in the landlord's favour for the June 2017 rent, which is the subject of this hearing. The landlord testified that she currently has the orders in her possession and that this current landlord's application, which was originally scheduled through the

direct request process, was submitted before the hearing that took place on June 19, 2017 and is for the same issue of June 2017 unpaid rent that was previously decided.

Analysis

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. The rule provides that when a court of competent jurisdiction has entered a final judgement on the merits of a cause of action, the parties to the suit are bound not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose. A final judgment on the merits bars further claims by the same parties based on the same cause of action.

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

Conclusion

I decline jurisdiction to hear this matter.

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: September 08, 2017

Residential Tenancy Branch