



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, MNDC, OLC, ERP, RP, PSF, LRE, OPT, AAT, LAT, RR

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- more time to make an application to cancel the landlord's 10 Day Notice pursuant to section 66;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an Order of Possession of the rental unit pursuant to section 54; and
- an order to the landlord to provide services or facilities required by law pursuant to section 65.

This matter was set for hearing by telephone conference call at 11:00 am on this date. The line remained open while the phone system was monitored for fifteen minutes and the only participant who called into the hearing during this time was the respondent.

The respondent testified that the tenant is seeking the same relief as he sought in a previous hearing under the file numbers on the first page of this decision. The respondent also said that the tenant has filed another application seeking identical relief which is scheduled for a hearing on March 22, 2018.

While the respondent testified that the future scheduled hearing deals with the same relief and involves the same parties, I find that in the absence of the applicant it would be unduly prejudicial to join the future dated application to be heard at this time.

The principle of *res judicata* prevents an applicant from pursuing a claim that has already been conclusively decided. I find that there was a conclusive decision issued by another arbitrator at the earlier hearing of January 24, 2018. I find that the relief the tenant currently seeks is identical to that sought in the earlier hearing and was conclusively determined. Therefore, I do not have the jurisdiction to make a new finding.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to reapply.

As the applicant did not attend the hearing by 11:10 am, and the respondent appeared and was ready to proceed, if there are portions of the tenant's application which have not been conclusively determined in the earlier hearing, I dismiss those portions of the tenant's claim without leave to reapply.

Conclusion

The tenant's claim is dismissed without leave to reapply.

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: February 19, 2018

Residential Tenancy Branch