



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPL FF

Introduction

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

- an order of possession for landlord's use of property pursuant to section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing.

Issues

Is the landlord entitled to an order of possession for landlord's use of property (the "2 Month Notice")?

Is the landlord entitled to recover its filing fee?

Background and Evidence

The landlord has applied for an order of possession based upon a 2 Month Notice dated March 26, 2018.

The tenant submitted into evidence a previous Residential Tenancy Branch decision dated May 9, 2018 (file# referenced on cover page of this decision).

As per the decision dated May 9, 2018, the 2 Month Notice dated March 26, 2018 was cancelled.

The landlord argued they were never advised of the previous hearing nor have they received a copy of this previous decision.

Analysis

Res judicata is the legal doctrine preventing, among others, the rehearing of an issue on which a previous binding decision has been made involving the same parties.

I find that the subject matter of this application, specifically the 2 Month Notice to End Tenancy dated March 26, 2018, has already been conclusively decided upon and cancelled in a previous hearing and therefore cannot be reheard.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the filing fee paid for this application.

Conclusion

The landlord's application for an order of possession based upon a 2 Month Notice dated March 26, 2018 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: June 15, 2018

Residential Tenancy Branch