



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VMM COMMUNICATIONS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR LRE OLC

Introduction

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

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the *Act*;
- an Order that the landlord's right to enter be suspended or restricted, pursuant to section 70 of the *Act*; and
- an Order for the landlord to comply with the *Act*, regulation, and/or tenancy agreement pursuant to section 62 of the *Act*.

Both parties attended at the date and time set for this hearing. At the outset of the hearing, the tenant confirmed that she no longer resided in the rental unit as the landlord had obtained bailiff services to remove her belongings from the rental unit. The landlord confirmed that he had previously attended a Dispute Resolution Hearing on October 11, 2018 resulting in a decision granting him an Order of Possession for the rental unit. The landlord confirmed that he exercised the Order of Possession and has now regained possession of the rental unit. The tenant confirmed that she filed her Application for Dispute Resolution for this hearing on October 12, 2018.

I explained to the parties that I had no standing to hear this matter, given that a previous proceeding before the Residential Tenancy Branch on October 11, 2018, related to the same parties and the same property in question, resulted in an arbitrator determining that an Order of Possession be granted to the landlord, ending the tenancy. As the tenancy has been ended, the tenant's application to cancel the notice to end tenancy, to restrict the landlord's access to the rental unit and to order the landlord to comply with the *Act* and/or tenancy agreement are now moot. The file number pertaining to the previous decision is noted on the cover sheet of this Decision.

The legal principle of *res judicata* prevents a plaintiff from pursuing a claim that already has been decided and 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 issue 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 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*.

The tenant explained that she is not very familiar with residential tenancy legislation. I informed the tenant that she could contact the Residential Tenancy Branch to speak with an Information Officer to obtain further information. The Information Officers at the Residential Tenancy Branch are accessible by telephone and email to provide assistance to both landlords and tenants regarding the process to be followed when a tenancy agreement is in dispute and the appropriate remedies available under the *Act*.

Conclusion

As I am without jurisdiction to consider this matter, the tenant's application is dismissed without leave to reapply. The final and binding decision issued on October 11, 2018, 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: November 23, 2018

Residential Tenancy Branch