



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      MNDC OLC LRE FF

### Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to change the locks and/or to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to make submissions. The landlord acknowledged receipt of the tenant's application.

### Preliminary Issue – *Res Judicata*

*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.

At the outset of the hearing, the landlord raised an argument that the issues identified in the tenant's application have already been conclusively determined by way of a decision dated March 14, 2018. The landlord submitted copy of this previous decision as evidence. In the March 14, 2018 decision, the tenant's application for monetary compensation for damage or loss, an order for the landlord to comply with the Act and an order authorizing the tenant to change the locks was dismissed without leave to reapply. The tenant later applied for a review consideration of the original decision and on April 13, 2018, the tenant's review application was also dismissed. The tenant's previous application was in regards to allegations the building manager was illegally

entering the tenant's unit for which the tenant was applying for the locks to be changed and compensation for right of possession and loss of quiet enjoyment.

In the current application, the tenant is again alleging the landlord has illegally entered the unit and is requesting the landlords right to enter be subject to conditions or suspension. The tenant is again requesting compensation for breach of possession and loss of quiet enjoyment. All of the dates of alleged incidences of non-compliance by the landlord contained in the tenant's application refer to incidents prior to the March 14, 2018 decision. Aside from the application, the tenant provided no documentary evidence in support of his application. The tenant attempted to argue that this application was different as the last one requested change of locks and this was is seeking to set conditions on the landlord's right to enter. The tenant confirmed that the issue is related to an incident which occurred last year.

I find that the subject matter of this application is *res judicata*, meaning the matter has already been conclusively decided upon and cannot be heard again as the tenant's previous application was dismissed without leave to reapply. I find that although the tenant is seeking slightly different remedies under the Act, the central issue raised in the tenant's application is in regards to incident(s) that occurred prior to the tenant's previous application and subsequent decision dated March 14, 2018.

The tenant's application is dismissed in its entirety without leave to reapply. As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord.

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 30, 2018

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Residential Tenancy Branch