



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT, OLC

Introduction

This decision is in respect of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "Act") made on September 24, 2018. The tenant seeks the following remedies:

1. an order for more time to apply to cancel a 10 Day Notice to End Tenancy for Unpaid Rent;
2. an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent; and,
3. an order for the landlord to comply with the Act, regulations, or the tenancy agreement.

A dispute resolution hearing was convened at 9:30 a.m. on November 6, 2018, and the landlord and tenant attended, were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

I have only reviewed oral and documentary evidence pertaining to the preliminary issue of this application.

Preliminary Issue: *Res judicata*

In reviewing the tenant's application, Residential Tenancy Branch file information indicated that the subject matter of this application was previously decided upon by a previous arbitrator and that a review consideration confirmed that arbitrator's decision. This previous application is referenced in a related file number, which is included on the cover page of this decision.

At the beginning of the hearing, the landlord stated that the tenant no longer resides in the rental unit, and that she was rather confused as to why there was this hearing. The tenant then called into the hearing, and I explained to both parties that as the matter was previously heard and decided upon, I was unable to hear the tenant's application. I further explained that should the tenant wish to have the previous decision and review consideration decision appealed that she may wish to consult with legal counsel.

The parties briefly spoke to each other regarding the tenant's belongings and property at which point I asked that they stop talking. The tenant then promptly exited the hearing at 9:33 a.m. I ended the hearing by telling the landlord that I would have this decision sent to her email as listed on the file.

The legal principle of *res judicata* holds that a final judgment rendered by a court or administrative tribunal is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action. It is a legal principle that applies in all applications for dispute resolution, and applied to the present application, bars it from proceeding. The underlying issues regarding the end of tenancy of the rental unit have been decided upon. As such, in applying the principle of *red judicata* to the tenant's application, I find that this matter has previously been decided upon.

Conclusion

I dismiss the tenant's application 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 Act.

Dated: November 6, 2018

Residential Tenancy Branch