



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR MT

### Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- Cancellation of the landlord’s 10 Day Notice for Unpaid Rent; and
- More time to dispute the notice to end tenancy.

Both the tenant and landlord R.E. attended the hearing by way of conference all.

Following opening remarks, I explained to the parties that I had some concerns related to my ability to consider the tenant’s application.

The landlord confirmed he had previously applied for an Order of Possession and a monetary award by way of Direct Request Proceeding. The landlord confirmed he had succeeded in this application and had served the tenant with both the Order of Possession and the monetary award. The tenant confirmed receipt of these orders dated November 2, 2018.

The legal principle of *res judicata* prevents a plaintiff from pursuing a claim that already has been decided and also 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 particular issue actually 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 tenant's 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*.

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 November 2, 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: January 8, 2019

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Residential Tenancy Branch