



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NANAIMO AFFORDABLE HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, RP, RR

Introduction

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

- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to perform repairs to the rental unit, pursuant to section 33; and
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

The landlord's two agents, landlord JW ("landlord") and "landlord AB" and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the manager of housing operations for the landlord company named in this application and that she had permission to speak on its behalf at this hearing. Landlord AB did not testify at this hearing and was attending to observe for training purposes only. This hearing lasted approximately 43 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and the tenant was duly served with the landlord's written evidence package.

Both parties agreed that they attended three previous hearings at the Residential Tenancy Branch ("RTB") after which two decisions, dated July 15, 2016 ("first decision") and October 30, 2018 ("second decision"), were issued by two different Arbitrators. The file numbers for both decisions appear on the front page of this decision.

The tenant confirmed that he was given leave to reapply for monetary compensation for repairs after the first decision in July 2016 and that is why he filed this current application. He stated that he filed another application for repairs and monetary compensation which was heard in September 2018 and adjourned to October 2018, after which the second decision was made in October 2018. That second decision specifically refers to the first decision in July 2016 and notes the same repairs that the tenant raised regarding the heat and air conditioning.

Both parties agreed that in the second decision of October 2018, the tenant was granted a future rent reduction if certain repairs relating to the heat and air conditioning, and conditions were not met by the landlord. The tenant confirmed that most items had been completed, while the landlord confirmed that all of the items had been completed. The tenant explained that he was not concerned about the rent reduction because the landlord had been mainly compliant with the second decision orders.

I notified the tenant that he was applying for the same repairs and monetary compensation from July 2016, that were already heard in October 2018, and that because the same references were made in the second decision, I could not rehear that matter because it was *res judicata*, meaning it has already been decided. He confirmed his understanding of same. I notified him that he could not keep filing the same application now or in the future for the same repairs and monetary compensation as was previously dealt with in 2016 and 2018.

I spent the majority of this hearing explaining the previous hearing decisions and the *res judicata* principle to the tenant, as the tenant was confused about his own application and was trying to determine his claim during the hearing. I informed him that I could not provide him with any legal advice. I notified him that he could consult a lawyer for legal advice, an information officer at the RTB for information, not legal advice, regarding the *Act* and the hearing process.

Conclusion

The tenant's entire application is dismissed without leave to reapply as it is *res judicata*, since it has already been decided in two previous hearing decisions.

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: February 01, 2019

Residential Tenancy Branch