



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capilano Property Management  
Services and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, MT, OLC, FFT

### Introduction

This decision is in respect of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The tenant sought the following remedies:

1. an order cancelling a One Month Notice to End Tenancy for Cause (the "Notice"), pursuant to section 47(4) of the Act;
2. an order for the landlord to comply with the Act,
3. an extension of time in which to file an application for dispute resolution; and,
4. an order for compensation for the filing fee.

A dispute resolution hearing was convened on February 12, 2019 and the landlord's agent and the tenant's advocate attended.

While I have reviewed all oral and documentary evidence submitted that met the requirements of the *Rules of Procedure* and to which I was referred, only evidence relevant to the preliminary issue of this application is considered in my decision.

### Preliminary Issue: Res Judicata

In reviewing the tenant's application, I note that the landlord applied for dispute resolution on December 6, 2018 and obtained a decision and an order of possession on January 22, 2019 by another arbitrator. The Notice for which the tenant's application was brought is the same Notice for which the landlord was granted an order of possession.

As the issue for which the tenant's application was brought has already been decided, I am without jurisdiction to hear the same issues again. Further, the tenant's advocate explained that the tenant has "moved out and vacated the property," and as such, even if the principle of *res judicata* did not apply, the issues in this application are now rendered moot.

### Conclusion

As the issues of this application have been previously decided upon by an arbitrator, and thus the principle of *res judicata* applies, I hereby dismiss the 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: February 12, 2019

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Residential Tenancy Branch