



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes CNC, OLC

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47; and
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62.

Tenant C.L. (the "tenant") and the landlord's agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Preliminary Issue- Amendment

At the hearing the landlord's agent testified that the landlord's name on the tenant's application for dispute resolution was incorrect. The landlord's agent provided the correct name of the landlord. Pursuant to section 64 of the *Act*, I amend the landlord's name on the tenant's application for dispute resolution to the correct name provided by the landlord's agent.

Preliminary Issue- Cancellation of One Month Notice

The landlord's agent testified that the landlord wished to cancel the One Month Notice to End Tenancy for Cause dated April 24, 2019 which is the subject of today's hearing and is no longer seeking an Order of Possession.

I find that the One Month Notice dated April 24, 2019 is cancelled and of no force or effect.

Preliminary Issue- Res Judicata

Both parties confirmed that they had a previous Residential Tenancy arbitration in April of 2019. The tenant testified that the previous Decision already dealt with her application for the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62 of the *Act*.

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. Former adjudication is analogous to the criminal law concept of double jeopardy.

The previous Arbitrator made a finding on the tenants' application for the landlord to comply with the *Act*, regulation or tenancy agreement. 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 for the landlord to comply with the *Act*, regulation or tenancy agreement is therefore dismissed.

Conclusion

The One Month Notice dated April 24, 2019 is cancelled and of no force or effect.

The tenants' application for the landlord to comply with the *Act*, regulation or tenancy agreement is dismissed.

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: June 03, 2019

Residential Tenancy Branch