



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

This hearing was convened pursuant to the Tenants' Application for Dispute Resolution made on April 15, 2019 (the "Application"). The Tenants applied for an order granting compensation for monetary loss or other money owed, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant J.D. attended the hearing on behalf of both Tenants. The Landlords attended the hearing and were represented by H.D., their lawyer. The parties provided a solemn affirmation.

At the outset of the hearing, the Tenants' Application was discussed with the parties. J.D. confirmed the Application was based on errors made by the arbitrator following a hearing on June 7, 2018. During that hearing, the arbitrator considered the Tenants' application to cancel a notice to end tenancy. After hearing the evidence and submissions of the parties, the arbitrator determined that the Tenants did not comply with the Landlords' requests to maintain the unit in a clean and sanitary condition. Therefore, the arbitrator upheld the notice to end tenancy and dismissed the Tenants' application. As a result, the Landlord was granted an order of possession, pursuant to section 55 of the *Act*.

The Tenants subsequently applied for a review consideration of the decision on the basis of fraud, pursuant to section 79 of the *Act*. In a review consideration decision issued on July 4, 2018, the arbitrator addressed the Tenants' submissions and dismissed the application. The arbitrator also noted the Tenants' concerns about fairness may be a ground for Judicial Review to the Supreme Court of British Columbia but was not a ground or review under section 79 of the *Act*. Indeed, the parties confirmed the Tenants did apply for Judicial Review on July 10, 2018, but that the application was subsequently dismissed by Mr. Justice Gomery on August 29, 2018, with costs being awarded to the respondents.

The file number of the previous proceeding is included above for ease of reference.

After reviewing the Tenants' Application and considering the submissions of the parties, I find the Application for compensation cannot succeed. The Application is based on the premise that previous decisions of the Residential Tenancy Branch were incorrect or unfair. However, it is not within the authority granted to me by the Director to reconsider the decisions of previous arbitrators, or to award compensation to parties based on a decision they believe should have been made differently. Therefore, pursuant to section 77(3) of the *Act* and the legal principle of *res judicata*, I find that I cannot consider the Tenants' request for compensation. This matter was already heard and decided upon at the hearing of June 7, 2018, and was subsequently addressed in the Tenants' application for review consideration and application for Judicial Review.

In light of the above, and as the parties were advised during the hearing, I find that the Tenants' Application is dismissed, 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 *Residential Tenancy Act*.

Dated: July 22, 2019

Residential Tenancy Branch