Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CLAY & COMPANY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRT, MNDCT, RPP

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act)*, I was designated to hear an application regarding the above-noted tenancy. The Applicant applied for:

- a monetary order for compensation for losses or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33; and
- an order requiring the Respondent to return the Applicant's personal property pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As the Respondent confirmed that they had received a copy of the Applicant's dispute resolution hearing package on August 29, 2019, I find that the Respondent was duly served with this package in accordance with section 89 of the *Act.*

The Applicant testified that they had provided all of their written evidence to the Respondent as part of other applications for dispute resolution. The Respondent testified that they had not received anything from the Applicant for the purposes of this hearing other than the dispute resolution hearing package. As there is no evidence that the Applicant's written evidence was served in accordance with the *Act*, I have not considered the Applicant's written evidence in making my decision.

The Respondent maintained that they sent the Applicant copies of their written evidence, which the Applicant denied having received. As the Applicant did acknowledge having received a copy of a July 26, 2019 decision from another Arbitrator

appointed pursuant to the *Act* (see above) and that was the only written evidence I needed to consider with respect to this application in addition to the application for dispute resolution, I have only taken into account that decision, the application for dispute resolution and the sworn testimony of the parties in determining my jurisdiction to proceed with a hearing of this application.

I should also note that two days before this hearing was to occur the Applicant submitted new written evidence in the form of a revised Monetary Order Worksheet. In that Worksheet, the Applicant indicated that they were seeking a monetary award in excess of two billion dollars.

Issue(s) to be Decided

Do I have jurisdiction to consider this application? If so, should any orders be issued against the landlord?

Background and Evidence- Jurisdiction

The Applicant's current application was for a monetary award of $35,000.00, the maximum amount allowed pursuant to the *Act*. Their application identified the following reasons for seeking this monetary award:

"landlords" stole my entire house and land and sold it without my permission; landlords stole my personal property including household goods, provisions, supplies, food, clothing, shoes, personal care items, furniture, dishes, pots& pans, personal identification and information, banking records, credit information, produce from apple trees, car keys and car, stole my baby, and constantly violated my privacy via criminal harassment, watching & besetting

"landlords" charged me rent to live in my own house; "landlords" charged me for daycare fees for them to care for their own children in my home; landlords claimed that they were my parents and that I was giving birth to their children for them; human trafficking and RITUAL ABUSE; landlords owe me money for room & board; I am asking for amount greater than 35,000; landlords stole my entire house property and sold it without my permission.

This application closely parallels the following description of the nature of the disputed provided by the previous Arbitrator who considered a similar application from the Applicant on July 26, 2019:

> *maximum amount; stolen condominium property used by a group of females operating as a fraud syndicate; the property is used as a time-*

share accommodation, a bed & breakfast, a party place, and a motel for travellers who are criminals. The females claim they are "my mother" and frequently attempt to kill me. I need to increase rent to cover costs of damages for having been caused to be homeless by the respondents. fees for trafficking the landlord for services such as cleaning, repairs, etc...

The … group has been trafficking me to do legal work with the lawyer to arrange committeeship via XX of BC in order to conduct the house properties theft via identities fraud. There was trafficking of services to support the … group in the house property such as maintenance, repairs, cleaning, administrative, social working in the community; I was frequently attacked and assaulted by police directed by the fraudsters who never paid rent; $100 filing fee

The sole important distinction between the two applications is that the Applicant's application considered by the previous Arbitrator on July 26, 2019 identified the Applicant as the Landlord and the Respondent law firm as the Tenant. In the current application, the Applicant has reversed the Applicant and Respondent, naming the Applicant this time as the Tenant and the Respondent as the Landlord.

In the previous Arbitrator's decision, the arbitrator dismissed the Applicant's application without leave to reapply for the following reasons:

...I find that at no point in the materials and submissions of the applicant have they established that there is a landlord-tenant relationship or any contractual relationship between the parties. I find that the applications are entirely baseless and without merit. For this reason the applications are dismissed in its entirety without leave to reapply...

In addition to the previous decision, which the Respondent's representative maintained was final and binding, the Respondent's representative gave undisputed sworn testimony that the Respondent law firm has never at any time been the Applicant's landlord. The Respondent's representative also gave undisputed sworn testimony that this dispute extends to 2003, when the Respondent law firm sent the Applicant a letter notifying them of their client's severing of the previous joint tenancy and advising them they now had an undivided one-half interest in this property as a tenant-in-common. The Respondent's representative also gave undisputed sworn testimony that the property in question was sold in 2013, and that any action that the Applicant would have

had available to them at one time would have had to have been initiated within two years of the end of any tenancy they had.

The Applicant stated that they did not agree with the determination made by the previous Arbitrator on July 26, 2019. They also observed that this has been a very complicated matter involving infringements of human rights. As was the case with the matter before the previous Arbitrator, the Applicant submitted a great deal of written evidence, including references to human rights investigations, complaints to the Ombudsperson's Office, and a range of litigation or attempted litigation. As appears to have been the case with respect to the previous application considered on July 26, 2019, very little if any of this material has any bearing on whether this matter lies within the jurisdiction of the *Act.*

Analysis - Jurisdiction

I first note that there has been a final and binding decision issued by the previous Arbitrator on July 26, 2019. Although the Applicant has reversed who was identified as a Landlord and who was identified as a Tenant in the current application, the parties are the same, and the position taken by the Respondent's representative is essentially the same.

In considering the current application, I have taken into account the legal principle of "res judicata." *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 relitigation 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.

In essence, even though the previous Arbitrator dismissed the Applicant's previous application without leave to reapply, the Applicant has submitted a new application based on the same grounds, with only the roles of the Landlord and Tenant changed. On this point, I find that the previous Arbitrator very clearly considered the relationship between the parties as presented at the previous hearing on July 26, 2019, and made a final and binding determination that there is no landlord-tenant relationship between these parties. The previous Arbitrator extended this decision to also include that there was no "contractual relationship" between the parties. The current application asks for a different outcome with respect to the previous Arbitrator's determination with respect to whether there was a contractual relationship between the parties. Without a

contractual relationship between the parties, the Applicant's application is without substance. As this matter has already been subject to a final and binding decision by the previous Arbitrator, I am not at liberty to make a new determination with respect to this fundamental issue.

Separate from the fact that I am bound by the principle of *res judicata*, which prevents me from making a new determination to the contrary, I am also mindful of the following provision of section 60 of the *Act*. This provision was noted by the Respondent's representative:

> ***60*** *(1)If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.*
> *(2)Despite the Limitation Act, if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement in relation to the tenancy ceases to exist for all purposes...*

As there is undisputed sworn testimony that this property was sold in 2013, the Applicant is well beyond the two year time limit for initiating an application for dispute resolution with respect to any tenancy, which clearly had ended by at least 2013 (and likely much earlier). On this basis, I also have no jurisdiction to consider this application for dispute resolution.

I should finally add that the *Act* restricts applications for monetary awards to $35,000.00. Although the Applicant's late provision of a Monetary Order Worksheet is not properly before me, the Applicant appears to be under the misconception that they can seek a monetary award pursuant to the *Act* in the magnitude of billions of dollars. If the Applicant believes that the misdeeds committed by those associated with any tenancy which once existed is of such gravity that they require reimbursement of billions of dollars, the Applicant would be well-advised to seek such compensation through other means. The *Act* establishes a firm ceiling of $35,000.00 on monetary awards that can be issued to parties.

Conclusion

I decline to consider this application as I have no jurisdiction to proceed.

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: October 21, 2019

Residential Tenancy Branch