



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

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

- an Order of Possession for cause, pursuant to sections 47 and 55; and
- authorization to recover the filing fee from the tenants, pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:44 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. The landlord and his wife attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlords and I were the only ones who had called into this teleconference.

### Preliminary Issue- Res Judicata

The landlord testified that he was issued an Order of Possession in a previous Residential Tenancy Branch Decision dated September 15, 2019, which was entered into evidence. The Order of Possession was based on a One Month Notice to End Tenancy for Cause dated July 8, 2019 (the "One Month Notice"), which the tenants' disputed.

This current application for dispute resolution seeks an Order of Possession based on the same One Month Notice which was adjudicated on in the previous hearing.

*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.

I find that the landlord's application for an Order of Possession based on the One Month Notice was previously decided on in the previous hearing. 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 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: November 19, 2019

---

Residential Tenancy Branch