



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP

### Introduction

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

- an order to the landlord to make repairs to the rental unit pursuant to section 32.

Both parties attended the hearing via conference call and provided affirmed testimony.

At the outset, both parties referred to a previous hearing. The tenant stated that the previous hearing was a request for emergency repairs, whereas the landlord stated that it was in part for repairs. A review of the previous decision was made to clarify the issue. The previous decision dated December 17, 2019 consisted of a request for an order for the landlord to make repairs as well as several other issues. The landlord pointed out that in that decision the tenant's application was dismissed without leave to reapply. The tenant confirmed these details. Both parties confirmed in that decision that the tenant had vacated the rental unit.

I find as such that the tenant's current application is a duplication of the same request made previously that was adjudicated.

Once a final and binding decision is issued by an Arbitrator appointed pursuant to the *Act*, the legal principle of *res judicata* prevents any interference with that decision by another Arbitrator. The principle of *res judicata* establishes that when a court of competent jurisdiction has entered a final judgement on the merits of a cause of action, the parties to the suit are bound not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter

which might have been offered for that purpose. A final judgment on the merits bars further claims by the same parties based on the same cause of action.

*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.

At the conclusion of the hearing the tenant provided a new mailing address for delivery of this decision.

The tenant's application is dismissed without leave to reapply for lack of jurisdiction.

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: January 17, 2020

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Residential Tenancy Branch