



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, MNDCL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an order of possession for unpaid rent and for a monetary order for unpaid rent in the amount of \$2,050.00.

The Tenant and the Landlord appeared at the teleconference hearing and were given the opportunity to make submissions.

Preliminary Matter: Res Judicata

The Landlord acknowledged that these matters had already been adjudicated in another Residential Tenancy Branch ("RTB") hearing last week. That other arbitrator has not yet made her decision, but she has conducted in the matter. The hearing number is quoted on the cover sheet of this Decision.

"*Res judicata*" is a rule of law that a final decision, determined by an arbitrator with proper jurisdiction and made on the merits of the claim, is conclusive as to the rights of the Parties, and constitutes an absolute bar to a subsequent application involving the same claims.

Black's Law Dictionary defines *res judicata*, in part as follows:

A matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment. Rule that a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action.

[emphasis added]

The previous application for dispute resolution raised each of the allegations, which the Landlord has again asserted in the current Application. In this proceeding, the Landlord is making the same allegations with the same evidence against the same tenant.

I find that the previous matter is related to the same Parties and the same issues and that a final decision will be issued by the previous arbitrator on the merits of the claim. Accordingly, I find that *res judicata* applies to this proceeding, and therefore, I must dismiss this Application on that basis, as was explained to the Parties in the hearing.

The Landlord said that she had another claim for compensation for damage to the rental unit, as the Tenant confirmed that he moved out. However, the Landlord had not applied for this claim in the current Application; therefore, as I advised the Parties, it would be administratively unfair to the Tenant for me to consider those matters, as he was not given notice of this claim in the Notice of Hearing and Application documents served on him. As a result, this claim is dismissed with leave to reapply.

Conclusion

As the issues raised in this Application have been previously decided by an arbitrator, and thus the principle of *res judicata* applies, I hereby dismiss this Application on those matters without leave to reapply.

The Landlord addressed the issue of compensation for damage to the rental unit in this hearing; however, as she had not applied for that specific claim in her Application, I have dismissed this matter with leave to reapply.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 19, 2020

Residential Tenancy Branch