



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

On February 28, 2020, the Tenant filed an Application for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*") to request a monetary order for compensation pursuant to section 51 of the *Act*, and to recover the filing fee for this application. The matter was set for a conference call.

The Tenant and the Landlord attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary matter- *Res Judicata*

At the outset of the hearing, it was brought to this Arbitrator's attention that these parties had a previous Dispute Resolution hearing with the Residential Tenancy Branch. The Landlord testified that there had already been a hearing regarding the Tenant's claim for compensation pursuant to section 51 of the *Act*. A copy of the previous decisions had been submitted into evidence by the Landlord.

Res judicata is the legal doctrine preventing, the rehearing of an issue that has been previously settled by a decision determined by an Officer with proper jurisdiction.

I have read the previous decisions submitted into evidence by the Landlord, and I find that the principle of *res judicata* bars me from considering the Tenant's application in regard to their request for compensation pursuant to section 51 of the *Act*, as this matter

has already been determined in the final and binding decision dated December 30, 2019.

Analysis

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant has not been successful in their application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this hearing.

Conclusion

I dismiss the Tenant's application 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 7, 2020

Residential Tenancy Branch