



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OLC, CNR, PSF, CNC, LRE, AAT, LAT, MNDCT, RR, MNRT, RP, OPT

Introduction

This hearing was convened as a result of the Applicant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on October 9, 2020. The Applicant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Applicant and the Landlord/Owner were present at the hearing. All parties provided testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

At the outset of the hearing, the issue of jurisdiction was raised. The Landlord stated that our office does not have jurisdiction on this matter because there is no rental agreement, no tenancy, between him and the occupant and this matter has already been determined at a previous hearing. The Landlord cited several file numbers as a reference.

The Landlord cited a previous application made by the Applicant. That hearing was conducted on May 14, 2020, and a decision was rendered on May 15, 2020. I note that in that decision, the Arbitrator made several findings with respect to jurisdiction. This application is made by the same applicant, against the same Landlord, for the same

rental address. As such, it is important to consider the issues and matters already determined at that hearing, to ensure previous decisions on the same issues are honored, and not reheard.

During the hearing, I explained to the parties that I cannot re-hear, change or vary a matter already heard and decided upon as I am bound by the earlier decision, under the legal principle of *res judicata*. *Res judicata* is a rule in law that a final decision, determined by an Officer 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 matter.

At the hearing on May 14, 2020, the Arbitrator determined, conclusively, that the Applicant on that file (same as the applicant on this file) is not a Tenant, but rather an occupant of the rental unit. The Arbitrator further determined that although the occupant was paying rent for a period of several months, it was for “use and occupancy” only. The Arbitrator at the May 14, 2020, hearing also found that there has been no assignment of any Tenancy Agreement, no legal sublease, and no tenancy agreement between the applicant and the Landlord/Owner. The Arbitrator refused jurisdiction and made the determination that the Applicant is not entitled to pursue remedies under the Act.

I note that, although the Applicant was told the Act does not apply to his living situation, the Applicant has filed subsequent applications for review consideration, as well as more application for dispute resolutions. Following all of those applications, the Applicant was again told there is no jurisdiction to hear his claims, given the findings made in the May 15, 2020, decision.

As stated in the hearing, I find the issue of jurisdiction on this “tenancy” has already been determined. As this is the same applicant, the same rental unit, and the same Landlord, I find the matter is not open to be reheard as part of this proceeding. As stated in the May 15, 2020 decision, the Act does not apply, which means there is no jurisdiction to hear the matters sought on this application.

Conclusion

The application is dismissed in full 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: October 13, 2020

Residential Tenancy Branch