



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDC LRE OLC AAT LAT FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on February 8, 2021. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

Both parties attended the hearing and provided testimony.

Preliminary Matters

At the outset of the hearing, the Landlord cited a previous file number, noted on this decision, whereby the Tenant had filed as application for an order of possession. A hearing was held on December 21, 2020, and pursuant to section 4(c) of the Act, that arbitrator found that this living arrangement is not government by the Act, as it is not a tenancy. At that time, an analysis of the material facts surrounding the living arrangement was done, and a decision on jurisdiction was rendered at the last hearing. Given this is the same applicant, the same respondent, relating to the same address and the same living arrangement, I find I am unable to re-hear this matter.

I note 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 claim. I find the issue of jurisdiction has already been determined, and the Tenant is not able to re-argue this issue in a subsequent application. If the Tenant was unhappy with, or disagreed with, the decision that was issued to him on December 21, 2020, he could have pursued an appeal of that decision. However, this is not an opportunity to re-hear or re-argue the issue of jurisdiction.

I dismiss this application, in full, without leave.

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: February 08, 2021

Residential Tenancy Branch