



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") to cancel a 10 Day Notice to End Tenancy for Landlord's Use of Property (the "**Notice**") pursuant to section 49.

This matter was reconvened from a prior hearing on February 14, 2022 before a different arbitrator who issued an interim decision that same day (the "**Interim Decision**"). This decision should be read in conjunction with Interim Decision.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:40 am in order to enable the landlord to call into the hearing scheduled to start at 9:30 am. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the tenant and I were the only ones who had called into the hearing.

This application is not the first time the parties have appeared before an arbitrator of the Residential Tenancy Branch ("**RTB**"). In April 2021 the parties attended hearing following which the presiding arbitrator issued a decision in which she found that RTB did not have the jurisdiction to adjudicate disputes between the parties. This decision was confirmed following a review hearing on September 15, 2021.

The Act does not grant an arbitrator the authority to vacate or overturn a decision of a previous arbitrator. As such, I find that I am bound by the determination made in April 2021 (confirmed in September 2021) that the RTB does not have jurisdiction to hear the dispute between the parties. As such, I decline to hear this dispute.

I caution the landlord against making further applications for dispute resolution with the RTB. Twice now an arbitrator of RTB has declined jurisdiction. Further applications to the RTB may be found to be an abuse of process.

This is not to say that the landlord is unable to seek legal recourse against the tenant, it is only to say that she must do so in a different forum.

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: May 10, 2022

Residential Tenancy Branch