



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;
- authorization to change the locks and/or to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing.

At the outset of the hearing, the landlord's counsel advised the matters in this application may be moot as the parties just had a hearing on a related file in which the tenant was seeking remedies similar to his application. The tenant failed to attend that hearing on March 31, 2023; however, the decision was still pending at the time of this hearing.

On April 3, 2023 the parties also attended a hearing pursuant to the landlord's application for an early end to the tenancy. Both parties attended that hearing and reached a settlement by which they mutually agreed to end the tenancy effective June 1, 2023.

The tenant confirmed the above however he stated the entire matter had not been settled and he was still seeking monetary compensation. The tenant stated he would

be filing for a review of any decision rendered for the March 31, 2023 hearing as he was unable to attend due to circumstances out of his control.

After reviewing the related file pertaining to the March 31, 2023 hearing date, I determined that the remedies sought by the tenant were similar and overlapping with the remedies sought in this application specifically the tenant's claim for a rent reduction based monetary claim.

The parties were advised that I would be adjourning this matter pending the outcome of the March 31, 2023 hearing decision. The tenant was advised that if his claims were dismissed the correct procedure would be for him to request a review of that decision. The tenant understood and agreed to this approach as did the landlord's counsel.

The March 31, 2023 hearing decision has subsequently been issued by the Residential Tenancy Branch on April 4, 2023. In this decision, the tenant's claims for monetary compensation, a rent reduction and request to suspend or set conditions on the landlord's right to enter the rental unit were all dismissed without leave to reapply.

*Res judicata* is the legal doctrine preventing, among others, the rehearing of an issue on which a previous binding decision has been made involving the same parties.

Accordingly, I find that the subject matter of this application has already been conclusively decided upon and dismissed in a previous hearing and therefore cannot be reheard.

The tenant's application is dismissed in its entirety without leave to reapply.

As the tenant was not successful in this application, the tenant is not entitled to recover the filing fee paid for this application.

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: April 05, 2023

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Residential Tenancy Branch