



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes

MND, MNSD, MNDC, FF

Introduction

The above noted hearing to deal with the landlord's application seeking a monetary order for damages and to retain the security deposit in partial satisfaction of the claim, was scheduled be heard today on October 26, 2011 at 1:30 p.m. The landlord attended, but, despite being served, the tenant did not appear.

At the outset of the hearing it was discovered that a previous hearing on the landlord's application seeking monetary compensation had been scheduled to be heard on August 4, 2011. The hearing had commenced as scheduled but was not attended by either the applicant landlord nor the respondent tenant.

The dispute resolution officer presiding over the previous hearing had dismissed the landlord's application in its entirety without leave.

Preliminary Matter

I find that the applicant landlord's claim for monetary compensation was the subject of a pervious application and that a determination was already made in a prior decision issued on August 4, 2011. I find that, to consider this matter again would violate the principal 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.

Moreover, I find that *section 77* of the *Act* states that, except as otherwise provided in the *Act*, a decision or an order is final and binding on the parties. The landlord's application was officially determined at the August 4, 2011 hearing and the landlord's monetary claims against the tenant were dismissed. I find that I therefore lack authority under the *Act* to determine this matter as I cannot make a decision over-ruling that made by the previous dispute resolution officer.

Accordingly, I hereby decline to hear nor consider this matter as I lack statutory jurisdiction to do so.

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 26, 2011.

Residential Tenancy Branch