



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Brown Bros. Agencies Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Analysis

The landlord filed an Application for Dispute Resolution by Direct Request for an Order of Possession based on a 10 Day Notice issued on August 3, 2021. The landlord has also request monetary compensation for unpaid rent owing from May 2021 to August 2021.

I find that a dispute hearing previously took place with the Residential Tenancy Branch on September 13, 2021. As a result, the landlord was successful in obtaining an Order of Possession for unpaid rent and the Arbitrator determined that the tenancy ended on May 19, 2021.

I find that I cannot end a tenancy that has already been terminated. For this reason, the landlord's application for an Order of Possession for unpaid rent is dismissed without leave to reapply.

Res judicata prevents a plaintiff from pursuing a claim that already has been decided and also prevents a defendant from raising any new defense to defeat the enforcement of an earlier judgment.

A previously decided issue is comparable to the criminal law concept of double jeopardy.

I also note that, on September 13, 2021, the landlord was successful in obtaining a Monetary Order for unpaid rent owing from May 2021 to September 2021.

I therefore find that the monetary portion of this current application is *res judicata*, meaning the matter has already been conclusively decided and cannot be decided again.

For this reason, the landlord's application for a Monetary Order for unpaid rent owing from May 2021 to August 2021 is dismissed without leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlord's application for an Order of Possession and a Monetary Order for unpaid rent owing from May 2021 to August 2021 without leave to reapply.

I dismiss the landlord's application to recover the filing fee paid for this application 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: September 15, 2021

Residential Tenancy Branch