



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR-MT, FFT

Introduction

The Tenant seeks an order pursuant to s. 46 of the *Residential Tenancy Act* (the “*Act*”) cancelling a 10-Day Notice to End Tenancy signed on February 6, 2023 (the “10-Day Notice”) and more time to do so pursuant to s. 66 of the *Act*. The Tenant also seeks return of her filing fee pursuant to s. 72.

D.F. appeared as the Tenant. C.B. and J.M. appeared as the Landlord’s agents.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Matter Previously Adjudicated

At the outset of the hearing, J.M. advised that the Landlord has obtained an order of possession with respect to this tenancy after the Landlord had filed its own application. I confirmed the file number and that the previous file pertained to the same 10-Day Notice, both of which were confirmed by the Landlord’s agent. The Tenant confirms having received the order of possession from the Landlord.

At law, the doctrine of res judicata acts to prevent the same matter from being adjudicated more than once. In this instance, I accept that the previous file, which is noted on the cover page of this decision, dealt with the same issue as the present application, being the enforceability of the 10-Day Notice. As this has previously been adjudicated, I find that that issue estoppel applies such that I decline to consider the

Tenant's application. I dismiss her application to cancel the 10-Day Notice without leave to reapply.

Given the circumstances, I find that the Tenant is not entitled to the return of her filing fee. I also dismiss her claim under s. 72 of the *Act* 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: April 11, 2023

Residential Tenancy Branch