



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR-MT RP LRE RR FFT

Introduction

This dispute dealt with a tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 17, 2022 (10 Day Notice),
2. More time to make an application related to 1 above,
3. Rent reduction,
4. Regular repairs,
5. Order to suspend or limit landlord's access to rental unit,
6. Filing fee.

The parties and counsel for both parties appeared at the teleconference hearing. The parties were affirmed. Counsel was not affirmed as they are officers of the court. Both parties and counsel were provided the opportunity to ask questions during the hearing.

Neither party or counsel raised an issue with service of documentary evidence or the ability to review that evidence prior to the hearing.

Preliminary and Procedural Matters

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to cancel the 10 Day Notice and for more time to make an application to cancel the 10 Day Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only

consider the tenant's request to cancel the 10 Day Notice and the filing fee at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

Shortly after the start of the hearing, the parties mentioned that a previous Direct Request decision dated March 16, 2023, was issued cancelling the 10 Day Notice (Previous Decision). The Previous Decision contained a file number, which has been included on the cover page of this decision for ease of reference.

The Previous Decision should be read in conjunction with this decision. As the 10 Day Notice has already been cancelled through the Direct Request process, I explained to the parties that I cannot re-hear and change or vary a matter already heard and decided upon as I am bound by the earlier decision, under the legal principle 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.

Based on the above, I am barred at law from rehearing this matter due to *res judicata*.

Counsel for both parties requested that the other matters be heard at this hearing, which was not granted as this hearing was scheduled on an urgent basis due to the 10 Day Notice, and that the other matters were severed pursuant to RTB Rule 2.3 as indicated above.

Landlord's counsel then requested to have other 10 Day Notices heard at this hearing, which was also denied as I find this matter was not formally amended to consider any other 10 Day Notices as required by RTB Rule 4.

Conclusion

This matter cannot be re-heard due to the legal principle of *res judicata*.

The tenant has leave to reapply for the severed portions described above.

The landlord is at liberty to apply for dispute resolution regarding any other 10 Day Notice.

I decline to award the filing fee as this matter has already been addressed in the Previous Decision.

This decision will be emailed to both parties.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 3, 2023

Residential Tenancy Branch