



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

A matter regarding ELIZABETH FRY SOCIETY OF GREATER  
VANCOUVER and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      AAT, PSF, LRE, OLC

### Introduction

The Applicant sought various relief under the *Residential Tenancy Act* (the “Act”).

### Preliminary Issue: Jurisdiction and *Res Judicata*

The Applicant had this application heard by an arbitrator of the Residential Tenancy Branch (“RTB”) on April 21, 2023. The arbitrator rendered their decision on May 11, 2023 (the “Decision”), finding that Mazarine Lodge is transitional housing pursuant to the *Residential Tenancy Regulation* (the “Regulation”) and therefore is not governed by the Act. As such, the arbitrator declined jurisdiction of the applicant’s claims.

The Applicant filed a petition in the Supreme Court of British Columbia on May 17, 2023 seeking a judicial review of the Decision.

The Applicant now seeks to have the same issues decided by another arbitrator of the RTB. As in the Decision, the threshold issue will consist of determining whether the RTB has jurisdiction over the applicant’s claims. In these circumstances, the doctrine of *res judicata* applies and therefore this matter cannot be adjudicated by the RTB.

I have read and considered Respondent counsel’s written submissions, which they confirmed as their position during the hearing.

I find that I am persuaded by Respondent counsel’s argument, namely, that all three requirements of issue estoppel have been met. First, the Decision considers the fundamental question of whether the RTB has jurisdiction to hear a dispute in respect of the Applicant’s residence at Mazarine Lodge. In this case, the threshold issue will be to determine whether the RTB has jurisdiction to hear the matter.

As the Act has previously been found not to apply, the question on this application has, I must conclude, already been decided. Second, the Decision was final. Last, the parties to the Decision are the same parties in this case. Accordingly, the elements of issue estoppel have been met and the Applicant's application cannot be heard.

### Conclusion

For the reasons set out above I decline to consider the Applicant's application because of the principle of *res judicata*.

This decision is made on authority delegated to me by the Director under section 9.1(1) of the Act.

Dated: July 10, 2023

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Residential Tenancy Branch