

DECISION AND REASONS

Dispute codes: MNDC, MNSD, RPP

Introduction

This was an application by the tenant for a monetary order, for an order directing the return of a security deposit and for an order that the landlord return the tenant's personal property. The hearing was scheduled to be heard in person at the Residential Tenancy Office in Burnaby. The landlord attended at the appointed time for the hearing; the tenant applicant did not attend. The tenant is hearing impaired; her agent telephoned the Residential Tenancy Office to request an adjournment of the hearing and requested that the Dispute Resolution Officer call the telephone number provided. No reason was given for the adjournment request. I telephoned the number provided for the applicant at approximately 8:40 A.M. in the presence of the respondent landlord; there was no answer, merely a recorded announcement inviting callers to leave a message.

Background, Evidence, Analysis and Conclusion

The tenant claimed a monetary award of \$3,657.29. She requested and was granted a face to face hearing scheduled to be heard at 8:30 A.M. on this day. The Residential Tenancy Rules of Procedure provides for the adjournment and rescheduling of a hearing with written consent from both parties received at least three business days before the hearing. In the absence of consent the hearing must commence at the scheduled time and the party requesting the adjournment can ask the Dispute Resolution Officer to reschedule the hearing by submitting a written request setting out the circumstances that are beyond the party's control and that will prevent her from attending. This request must be received by the Residential Tenancy Office at least three business days before the hearing; alternatively the party can have an agent represent her and describe the circumstances that are beyond the party's control that will prevent her from attending the dispute resolution proceeding.

As noted, a telephone request for an adjournment was received but no reasons were given for the applicant's failure to attend. An agent did not attend the hearing on the applicant's behalf and no one answered at the telephone number provided by the applicant. The applicant has failed to comply with the rules relating to adjournment

requests and she has not provided any evidence to show that she was prevented from attending the hearing due to circumstances that could not be anticipated and were beyond her control. I therefore refuse to grant the applicant's request for an adjournment.

Based on the documentary evidence submitted by the parties and based on the testimony of the respondent landlord at the hearing, there is no dispute that the landlord is the registered owner of the rental property, a house in New Westminster. The landlord rented a room to the tenant/applicant on June 15, 2008 on a month to month basis at a monthly rent of \$450.00. The tenant paid a security deposit of \$250.00 at the commencement of the tenancy. The landlord lives in the rental property and shared the kitchen and bathroom facilities with the tenant during the currency of the tenancy. The landlord has other renters who occupy rooms in the rental property and share bath and kitchen facilities with each other and with the landlord.

Section 4 (c) of the Residential Tenancy Act provides:

This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

Because the tenant shared bathroom and kitchen facilities with the owner of the accommodation, I find that I have no jurisdiction to hear the applicant's claims in this proceeding. The application for dispute resolution is dismissed without leave to reapply.

Dated September 18, 2008.