

DECISION

Dispute Codes MNDC OLC ERP RP FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, an Order to have the Landlord comply with the Act, regulation, or tenancy agreement, make emergency repairs for health or safety reasons, make repairs to the unit, site, or property, and to recover the cost of the filing fee from the Respondent for this application.

Issues(s) to be Decided

Is the Applicant entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, pursuant to section 67 of the *Residential Tenancy Act*?

Is the Applicant entitled to an Order to have the Landlord a) comply with the Act, regulation, or tenancy agreement, and b) make emergency repairs for health or safety reasons, and c) make repairs to the unit, site, or property, pursuant to sections 62, 32, and 33 of the *Residential Tenancy Act*?

Background and Evidence

The Applicant filed for dispute resolution on October 26, 2010 at which time a hearing was scheduled for December 8, 2009, at 9:00 a.m.

On November 24, 2009 the Applicant submitted a request to have the telephone conference hearing rescheduled to a future date.

November 30, 2009 a letter was issued to the Residential Tenancy Branch from the Applicant's legal counsel with signed consents from both parties to request to reschedule the teleconference hearing to a date in January 2010.

The hearing was rescheduled to January 11, 2010 at 10:00 a.m. and the Notices of Dispute Resolution Hearing were sent to the Applicant's legal counsel and the participants on December 1, 2009.

January 5, 2010 a second request was received from the Applicant's counsel to reschedule the hearing to a time in April 2010, along with signed consents to reschedule from both participants. The hearing was rescheduled for today, April 12, 2010 at 1:30 p.m.

The Respondent and their legal counsel attended the scheduled hearing today however no one appeared on behalf to the Applicant.

Legal counsel for the Respondent advised the Applicant's counsel had approached the Respondent to request another adjournment and the Respondent declined.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

There has been no documentary evidence filed by the Applicant in support of his application, despite the application being filed over five and a half months ago. The Respondent however filed evidence on November 18, 2009.

If the Applicant was truly unable to attend the scheduled hearing because he could not be represented due to circumstances beyond his control, the dispute resolution proceeding must commence at the scheduled time and the Applicant or his representative must attend the hearing to request an adjournment from the Dispute Resolution Officer, in accordance with 6.3 of the *Residential Tenancy Branch Rules of Procedure*.

In the absence of the Applicant or his representative, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the Applicant, called into the hearing during this time. Based on the aforementioned I find that the Applicant has failed to present the merits of his application and the application is dismissed.

Conclusion

I HEREBY DISMISS the Applicant's claim, 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 12, 2010.

Dispute Resolution Officer