



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION AND REASONS

Dispute Codes

For the Tenant: MNDC, OLC, ERP, RP, LAT, FF

For the Landlord: OPR, MND, MNR, MNDS, MNDC, FF

Introduction

This hearing was reconvened as a result of the Landlord's successful Request for a Review Hearing to deal with the Tenant's Application for Dispute Resolution, which resulted in the Tenant being granted a monetary order for \$1,250.00, dated April 27, 2011, by the Residential Tenancy Branch through that Application.

The Landlord filed an application for a Review Hearing, which alleged that the Decision of April 27, 2011, was based upon a party being not able to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control; a party has new and relevant evidence that was not available at the time of the original hearing; and a party has evidence that the director's decision or order was obtained by fraud.

In a Decision of May 13, 2011, the Dispute Resolution Officer (DRO) granted the Landlord's application and set aside the Decision and Order of April 27, 2011, to allow a participatory hearing on the original Tenant's Application. The Decision of the DRO allowed the Landlord's application for review on the basis that the "landlord was unable to attend the hearing because of circumstances that could not be anticipated and were beyond her control."

Additionally, on April 26, 2011, the Landlord filed her own application for dispute resolution for an order of possession, a monetary order and to recover the filing fee.

The Landlord's application was set to be heard on or about May 20, 2011, but was adjourned by another DRO to be heard on this date, as a cross application.

The parties appeared, and gave testimony; however the parties were cautioned that due to the substantial amount of evidence submitted by both parties and the multiple issues involved, the hearing on both applications would be adjourned to a future date.

The Tenant advised that she was to shortly enter an alternative treatment center for her cancer care as traditional medicine was no longer working, and as such, did not know of her availability in the short term.

After hearing from both parties concerning delivery of documents, including notices to the other party and the evidence packages, the hearing had reached a stage that would not allow time for any testimony.

The parties could not agree that each had been served with other's evidence packages, with the exception of the Tenant's May 6, 2011, submission, which the Landlord acknowledged receiving.

Interim Conclusion

Due to the length of the preliminary issues of evidence delivery, the hearing has been adjourned and scheduled to reconvene in accordance with section 64 of the *Residential Tenancy Act*.

The parties were advised to resubmit all of their entire packages of evidence, each to the other, with the exception of the Tenant's May 6, 2011, evidence package, by registered mail, to be received at least five business days prior to the reconvened hearing. The parties are not allowed to submit further independent evidence, unless in response to the other's evidence.

Additional documentary evidence, other than listed above, will not be accepted from the parties in support of their claims or defences. Consideration will be given to the documentary evidence timely received prior to the hearing and as listed above.

The reconvened hearing will be set far enough in advance to accommodate the Tenant's cancer care treatment schedule, and the Tenant is allowed to submit proper proof in advance of the next hearing should any treatment interfere with the rescheduled hearing.

Conclusion

This hearing is adjourned to the date specified in the enclosed Notice of Adjourned Hearing, after which a final Decision will be rendered as to both applications.

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: June 09, 2011.

Residential Tenancy Branch