



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes MND FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for damage to the unit, site or property, and to recover the cost of the filing fee from the Tenants for this application.

The parties appeared at the teleconference hearing and were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Has the Tenant received the Landlord's evidence within a time frame that has allowed him to review and respond to that evidence?

Background and Evidence

The Tenant affirmed he received the Landlord's application for dispute resolution and the hearing documents in September 2011; however he did not receive the Landlord's evidence within the required five day time limit. He believes he received the evidence December 23, 2011, and knowing that it was not received in the required timeframe he did not review any of the evidence. The Tenant requested that the hearing be adjourned and reconvened at a later date so that he may have an opportunity to submit evidence in response.

The Tenant confirmed that he is in possession of the kitchen island that was removed from the rental unit and that it is currently in storage. He requested guidance on what he should do regarding articles that he left in the rental unit and if he should make an application for dispute resolution. I informed the Tenant that we could not discuss his possessions at this time as he has not yet filed an application and I suggested that he pose his questions to the *Residential Tenancy Branch*

Analysis

The evidence supports the Tenant received the Landlord's evidence December 23, 2011 which is not five clear days, as defined in the *Residential Tenancy Branch Rules of Procedure*, prior to the December 29, 2011 hearing. The Tenant appeared at the hearing and requested an adjournment so that he may have an opportunity to review and respond to the Landlord's evidence. I approved the Tenant's request in accordance with rule # 6.4 of the *Residential Tenancy Branch Rules of Procedure*.

The Tenant was advised to ensure his evidence was served to the *Residential Tenancy Branch* and the Landlord in accordance with the *Residential Tenancy Branch Rules of Procedure*, five clear days prior to the reconvened hearing date.

The Landlord was instructed not to submit additional evidence, as it will not be considered.

The Tenant was Ordered to return the Landlord's kitchen island / cabinet during the morning of Saturday January 7, 2012, pursuant to section 62 of the *Residential Tenancy Act*. The Tenant was instructed to call the Landlord prior to January 7, 2012 to advise the time the island / cabinet would be returned.

Conclusion

Notices of reconvened hearing will accompany this interim decision.

The Tenant is Ordered to comply with the above mentioned verbal order that was given during the hearing, pursuant to section 62 of the *Residential Tenancy Act*.

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: December 29, 2011.

Residential Tenancy Branch