



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes MNDC and OLC

Introduction

This application was brought by the tenants seeking a Monetary Order in the equivalent of two month's rent on the claim that the landlord did not use the rental unit for the purpose stated in a Notice to End Tenancy for landlord use. The tenants also seek an order that the landlord comply with the legislation and rental agreement.

As a matter of note, this tenancy was the subject of a hearing on November 3, 2011 (decision issued November 15, 2011) on the male tenant/occupant's successful application for return of the security deposit in double.

The tenants subsequently made application on the present claim, but when the hearing convened, the Dispute Resolution Officer found that neither party had called in to the telephone conference call hearing and dismissed the application with leave to reapply. Both parties gave evidence that they had attempted to join that conference call, but had been blocked from doing so from a temporary failure of the conference call system.

When the present hearing convened, legal counsel for the landlord reviewed his evidence and was surprised to learn that his submissions for the failed hearing of February 15, 2012 had not been forwarded to the present file. In addition, neither he nor I had copies of late evidence submitted by the tenants.

Therefore, legal counsel for the landlord submitted that his client would be prejudiced if he were to proceed without the documentary evidence submitted earlier and requested an adjournment to allow time for submission and exchange of evidence.

Given that the previous hearing was lost due to a technical failure of the telephone system, I find it is not unreasonable for the landlord's counsel to have assumed that the evidence would have been forwarded to the present file.

Therefore, I have granted the request for adjournment. The hearing will reconvene at a time and date set out in the attached Notice of Hearing.

While a copy of the Notice is being sent to all parties, the applicant tenants are reminded that, in the event the landlord does not appear, they would be required to prove that the landlord was served.

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 20, 2012.

Residential Tenancy Branch