



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was convened to deal with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order for rent.

At the outset of the hearing the tenant advised that the parties were engaged in a settlement discussion and therefore the hearing should not proceed. A communication was also received from the landlord by fax requesting that the matter be adjourned for “a few weeks” as the applicant landlord had agreed to the respondent tenant’s request for an adjournment.

Rule 6.1 of the Rules of Procedure states that the Residential Tenancy Branch will reschedule a dispute resolution proceeding if “*written consent from both the applicant and the respondent is received by the Residential Tenancy Branch before noon at least three (3) business days before the scheduled date for the dispute resolution proceeding.*” (My emphasis)

The *Definitions* section of the *Residential Tenancy Rules of Procedure* provides that when the number of “days” is expressed as “at least” a number of days, the first and last days must be excluded in the calculation. If the date that the document, notice or evidence must be served or given falls on a weekend or holiday, and it must be served on a business, or filed in an office, then it must be served or filed on the previous business day. If the document or notice must be provided to the Residential Tenancy Branch, weekends and holidays are not included in the calculation of days.

In this instance, the hearing was scheduled for July 17, 2012 and the landlord’s written request and tenants verbal request for an adjournment were both submitted July 17, 2012, the day of the hearing

In some circumstances proceedings can be adjourned after the hearing has commenced. However, the Rules of Procedure contain a mandatory requirement that the Dispute Resolution Officer must look at the oral or written submissions of the

parties; consider whether the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1 [objective and purpose]; consider whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding; and weigh the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and assess the possible prejudice to each party.

In this instance, I find that the parties did not request the adjournment at least 3 business days in advance of the hearing. I further find that the oral and written submissions from the parties did not sufficiently meet the above criteria to justify an adjournment and rescheduling of the matter.

Conclusion

Given the above, I decline to grant the parties' request for an adjournment. However, I hereby dismiss the landlord's application with leave to reapply and should the dispute remain unresolved, the applicant landlord is at liberty to make another application for this to be heard in future.

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: July 17, 2012.

Residential Tenancy Branch