



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF, O

Introduction

This hearing was convened by way of conference call in response to an application made by the landlord for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application.

One of the tenants attended the hearing, however the line remained open and the phone system was monitored for 18 minutes and the landlord did not join the conference call hearing. The landlord had provided a letter that stated the landlord would be unable to participate in the hearing and had also written to the tenants to request a change in the date. The tenant stated that no such letter had been received by the tenants, although the tenants' address has changed.

Issue(s) to be Decided

Is the landlord entitled to an adjournment of the hearing based on the written request for a change in the hearing date?

Background and Evidence

No evidence with respect to this dispute has been provided by either party with the exception of the landlord's letter requesting a change in date. The letter does not indicate a reason for the request, but simply states that the landlord will be unable to participate in the hearing booked for October 11, 2012 at 11:00 a.m. and that the landlord has written to the tenants to request a change in date. The letter is dated October 1, 2012 and was received by the Residential Tenancy Branch on October 5, 2012.

The tenant opposed the application to adjourn or reschedule the hearing.

Analysis

The Residential Tenancy Branch Rules of Procedure state that the Residential Tenancy Branch will reschedule a hearing if written consent from the parties is received by the Branch before noon at least 3 business days before the scheduled date. If the party is unable to obtain the consent of the other party, and the party requesting the matter be rescheduled will be unable to attend due to circumstances beyond his or her control, the party requesting an adjournment can ask the Dispute Resolution Officer to reschedule by submitting a document requesting that the proceeding be rescheduled and setting out the circumstances that are beyond the party's control that will prevent that party from attending, or by having an agent attend to orally request the matter be rescheduled and to describe the circumstances that are beyond the party's control that prevents the party from attending.

The Rules of Procedure also set out the criteria for granting an adjournment:

“6.4 Without restricting the authority of the Dispute Resolution Officer to consider other factors, the Dispute Resolution Officer must apply the following criteria when considering a party's request for an adjournment of the dispute resolution proceeding:

- a) the oral or written submissions of the parties;
- b) 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];
- c) 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;
- d) the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- e) the possible prejudice to each party.”

In this case, I have considered the written submission of the landlord, being a request for a change in the hearing date. I have no evidence of whether or not the purpose for which the adjournment is sought will contribute to the resolution of the matter, or whether the adjournment is required to provide a fair opportunity for the landlord to be heard, or the degree to which the need for the adjournment arises. The tenant has not consented to rescheduling the hearing date, and the landlord has provided no evidence or explanation of the request. Further, I have no evidence before me that the landlord is unable to attend due to circumstances beyond the landlord's control. I accept that the landlord notified the tenants, however the tenant had indicated that the tenants' address

has changed and the tenants did not receive the letter requesting that the hearing be rescheduled.

In the circumstances, I find that an adjournment for no apparent reason would be prejudicial to the tenants, and therefore the request to reschedule the hearing is denied.

The applicant failed to attend to present their claim, and the respondent appeared and was ready to proceed.

In the absence of the party who made the application, I dismiss the claim without leave to reapply. I made no findings of fact or law with respect to the merits of this matter.

Conclusion

For the reasons set out above, the landlord's application is hereby dismissed in its entirety 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: October 12, 2012.

Residential Tenancy Branch