



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for a Monetary Order to recover double the security deposit and to recover the filing fee from the landlords for the cost of this application.

Preliminary Issues

The tenant provided a hand written request to adjourn the hearing scheduled for today until July 05, 2013. The tenant states that due to a family emergency the tenant will be overseas and will be unable to call into the hearing due to a 13 hour time difference. The tenant mentions in this letter that due to circumstances between the tenant and landlord the tenant prefers not to contact the landlord as to an adjournment.

One of the landlords and the landlords Lawyer attended the hearing and state that the tenant did not notify the landlords of this request to adjourn the hearing. The landlords have gone to the expense of retaining a lawyer for the hearing and oppose the tenants request to have the hearing adjourned until July 05, 2013.

Analysis

I refer the parties to the Residential Tenancy Branch Rules of Procedure under **RULE 6 – RESCHEDULING AND ADJOURNMENT OF DISPUTE RESOLUTION PROCEEDINGS**

This rule says 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. The tenants request was submitted three business days before the hearing however the tenant did not notify the landlords of this request in order to obtain consent from the landlords to adjourn the hearing.

If a party request that a dispute resolution proceeding be rescheduled to another date because that party will be unable to attend the dispute resolution proceeding due to circumstances beyond his or her control, and if the opposing party does not consent to rescheduling the dispute resolution proceeding, the dispute resolution proceeding must commence at the scheduled time and the party requesting the adjournment can ask the arbitrator to reschedule the dispute resolution proceeding by:

- a) submitting to the Residential Tenancy Branch, at least three (3) business days before the dispute resolution proceeding, a document requesting that the dispute resolution proceeding be rescheduled and setting out the circumstances that are beyond the party's control that will prevent him or her from attending the dispute resolution proceeding; or
- b) having an agent represent him or her attend the dispute resolution proceeding to make a request to the arbitrator to reschedule the dispute resolution proceeding and to describe the circumstances that are beyond the party's control that will prevent him or her from attending the dispute resolution proceeding.

The tenant did not attend the hearing and did not appoint an agent to act for the tenant at the hearing to orally request an adjournment and to describe the circumstances that prevented the tenant attending the hearing. I further find that as the tenant did not contact the landlord and the landlord has incurred the expense of retaining a Lawyer for this hearing this cost to the landlord could have been avoided had the tenant put his request in writing to the landlord and asked the landlord to agree to an adjournment.

I therefore find due to the above reasons that the tenants request for an adjournment will not be permitted.

As the tenant has failed to attend the hearing to present the merits of his application I dismiss the tenant's application with leave to reapply.

Conclusion

As the tenant has failed to attend the hearing to present the merits of his application I dismiss the tenant's application with 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: May 30, 2013

Residential Tenancy Branch

