



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing was to deal with an application by the tenant for an order changing the amount found to be owed by the tenant to the landlord on a previous file. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, the landlord did not appear.

Issue(s) to be Decided

Is the tenant entitled to the relief requested?

Background and Evidence

The landlord served the tenant with a 10 Day Notice to End Tenancy for Non-Payment of Rent on April 17, 2013, by personal service on the tenant's son. The tenant acknowledged this and said she was out of the country at the time. The tenant also acknowledged that neither she nor an agent on her behalf filed an application with the Residential Tenancy Branch disputing the notice within the five day period.

The landlord subsequently filed an application through the direct request process for an order of possession and a monetary order for arrears of rent up to April 30, 2013. On May 30, 2013, an order of possession and a monetary order in the amount of \$3325.00 were granted to the landlord.

The tenant subsequently filed an application for review, which was unsuccessful.

On this application the tenant filed evidence in support of the following allegations:

- The rent was only \$900.00 per month, not the \$1050.00 as claimed by the landlord.
- They had made cash payments towards the rent which had not been credited by the landlord.
- There had been a number of problems with the rental unit and the upstairs tenants.

Analysis

An arbitrator, on a subsequent application for dispute resolution, cannot overturn or change a decision already made by another arbitrator. Accordingly, any application in relation to the issue of arrears of rent accrued to April 30, 2013, must be dismissed.

It appears that the tenant was also asking for an order pursuant to section 65 of the *Residential Tenancy Act*, reducing past rent, because of the landlord's failure to comply with the Act, regulation or tenancy agreement, in an amount equivalent to a reduction in the value of the tenancy agreement. However, this claim was not clearly set out on the application for dispute resolution and the respondent may not have understood the case he was being asked to respond to. Accordingly, this portion of the tenant's claim is dismissed with leave to re-apply.

Conclusion

The tenant's claim in relation to rent accrued up to and including April 30, 2013, is dismissed.

The tenant's claim in relation to any claim for a reduction in past rent is dismissed with leave to re-apply.

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 28, 2013

Residential Tenancy Branch