



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on December 6, 2013, by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for: unpaid rent or utilities; for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Tenant for this application.

The respondent Tenant appeared at the scheduled teleconference hearing; however no one appeared on behalf of the applicant Landlord.

Issue(s) to be Decided

Should the Landlord's application be dismissed with or without leave to reapply?

Background and Evidence

At the outset of this proceeding the Tenant confirmed receipt of the hearing papers and stated that she did not make application to cancel the 10 Day Notice issued October 1, 2013, because the Landlord had filed his application first.

There was no evidence presented on behalf of the Landlord, as no one appeared at the scheduled teleconference hearing to represent the Landlord, despite this hearing being scheduled to hear matters pertaining to the Landlord's application.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the applicant Landlord, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the Landlord called into the hearing during this time. Accordingly, in the absence of any submissions from the applicant Landlord I order the application dismissed without liberty to reapply.

Conclusion

I HEREBY DISMISS the Landlord's application, without leave to reapply.

The 10 day Notice to end tenancy issued October 1, 2013 is HEREBY CANCELLED and is of no force of effect.

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: January 29, 2014

Residential Tenancy Branch

