



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, ERP, FF

Introduction and Preliminary Matter

This dispute resolution process under the Residential Tenancy Act (the “Act”) originated upon the tenant’s application seeking an order requiring the landlord to make repairs and emergency repairs to the rental unit and for recovery of the filing fee.

The hearing on the tenant’s application was held on February 18, 2014, and was attended by the tenant only. In a Decision, dated February 18, 2014, another Arbitrator granted the tenant’s request at the hearing to amend her original application seeking monetary compensation, and therefore ultimately awarded the tenant a monetary order of \$745.

It is noted that at the time of the hearing, the tenant had vacated the rental unit.

On March 10, 2014, the landlord filed an application for review consideration of the Decision and order of February 18, 2014, which resulted in a favourable decision.

The reviewing Arbitrator, in a Review Consideration Decision dated March 19, 2014, suspended the original Arbitrator’s Decision and order of February 18, 2014, until such time as a review hearing on the tenant’s application is conducted. The landlord’s application for review consideration alleged that he was unable to attend the hearing due to circumstances that could not be anticipated and were beyond his control and that he had evidence that the Decision of February 18, 2014, was obtained by fraud, pursuant to Section 79(2) under the *Residential Tenancy Act*.

The reviewing Arbitrator granted the landlord a review hearing based their finding that the landlord was barred from attending the hearing based on an unforeseen medical problem.

At this review hearing, the tenant and the landlord attended.

The parties were informed that due to the landlord’s successful application for review consideration, a hearing would be conducted on the tenant’s original application for dispute resolution, without consideration of the original Decision of February 18, 2014.

The tenant's original application for dispute resolution contained a request for an order for the landlord to make repairs and emergency repairs to the rental unit; however, the tenancy ended when the tenant vacated the rental unit on February 13, 2014.

Issue(s) to be Decided

Will the Decision and order of February 18, 2014, be confirmed, varied, or set aside?

Analysis and Conclusion

As a result of the tenancy having ended prior to the original hearing, I dismiss the tenant's application seeking orders for the landlord, more specifically an order requiring the landlord to make repairs and emergency repairs, as these issues are matters dealing with an ongoing tenancy.

As to the monetary order granted to the tenant by the original Arbitrator, pursuant to a verbal request for an amendment of her application made at the hearing, the rules of administrative fair play and natural justice, as well as the Dispute Resolution Rules of Procedure (Rules), require that the respondent/landlord know of the claims against him and have a chance to respond to a monetary claim, in this case. As the landlord had not received notice of the tenant's monetary claim through her application, I am unable to grant the tenant monetary compensation with this application for repairs and emergency repairs to the rental unit.

As I have dismissed the tenant's application, I also decline to award her the filing fee.

As I have dismissed the tenant's application, I find that the Decision and Order of the Residential Tenancy Branch dated March 18, 2014, should be and it is hereby set aside.

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 13, 2014

Residential Tenancy Branch

