



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, MNDC, ERP, RP and PSF

Introduction

I was designated to hear this matter under section 58 of the *Residential Tenancy Act* (the Act). This hearing dealt with an application pursuant to the Act in respect of the above-noted tenancy. The tenant applied for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of the landlord's 1 Month Notice pursuant to section 47;
- a monetary order of \$25,000.00 for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33; and
- an order to the landlord to provide services or facilities required by law pursuant to section 65.

The Respondent appeared at the date and time set for the hearing of this matter at the Burnaby Office of the Residential Tenancy Branch. The Applicant did not, although I waited until 11:18 a.m. to enable him to connect with this hearing scheduled for 11:00 a.m.

At the commencement of this hearing, I noted that on May 7, 2014, the RTB received a written request from a doctor who stated the tenant had a medical condition that precluded him from being able to participate in this hearing. She requested a postponement of this hearing "for the indeterminate future" until a time when the tenant's health allowed for his participation in this hearing. The landlord expressed surprise at this request because no copy of this request was sent to him by the tenant or the tenant's doctor.

Rule 6 of the RTB's Rules of Procedure establishes how late requests for a rescheduling and adjournment of dispute resolution proceedings are handled. Since the tenant did not obtain the landlord's written authorization to agree to an adjournment of this hearing, the following portion of Rule 6.2(b) applies:

...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:

...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.

Although it would seem from his doctor's letter that the tenant knew as early as April 30, 2014 that he would not be attending this hearing, the tenant did not arrange for a representative to attend the hearing on his behalf to request an adjournment. Under such circumstances, Rule 6.3 applies:

6.3 Adjournment after the dispute resolution proceeding commences

At any time after the dispute resolution proceeding commences, the arbitrator may adjourn the dispute resolution proceeding to a later time at the request of any party or on the arbitrator's own initiative.

In considering the written request for an adjournment, I have applied the criteria established in Rule 6.4 of the Rules of Procedure. I note that the tenant submitted his application for dispute resolution on March 26, 2014, and provided no written evidence to support his claim for a monetary award of \$25,000.00, save for an unclear and somewhat incomprehensible statement in the Details of the Dispute in his application for dispute resolution. Thus, he knew about this hearing, scheduled at his request for the Burnaby Office of the RTB, well in advance of May 15, 2014, and did not have anyone represent him to act as his agent or to request an adjournment. The landlord said that he had gone to considerable effort to attend this hearing, as had his sister, who was also willing to act as a witness if required, and wanted the tenant's application considered at this hearing.

Under these circumstances, I decided that the tenant had not met the criteria established for granting an adjournment and proceeded with this hearing. In this regard, Rule 10.1 of the Rules of Procedure reads 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.

Accordingly, **in the absence of any evidence or submissions from the applicant, I order the application dismissed without liberty 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 15, 2014

Residential Tenancy Branch

