



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT, MNDC, O, FF

Introduction

The applicant failed to appear at the appointed time for the hearing. The respondent was present and ready to proceed. The telephone line conference line remained open and the phone system was monitored for ten minutes. The applicant did not appear after 10 minutes. I proceeded with the hearing. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to an order to allow access to (or from) the unit or site for the tenant or the tenant's guests?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The landlord testified that he does not know the applicant and has not entered into a tenancy agreement with him. He further testified there are two basement suites in the rental property. One suite is rented to SH and is called the basement suite. There are no problems with this tenancy. The second suite has not been rented since October and no one is supposed to be living there. It is called the basement room.

The landlord testified that he had a tenancy agreement with the upstairs tenants. He obtained an Order for Possession on December 10, 2014, a Writ of Possession on January 9, 2015 and attempted to enforce the Writ. The landlord submits that these ex- tenants are committing a fraud. The police have advised him that when they attend the basement room these tenants told the police they were visiting the applicant. They showed the police a copy of the within

Application for Dispute Resolution and the police determined this was a civil matter and they were not about to do anything until the matter had been determined in the arbitration hearing.

Analysis

Based on the evidence presented I determined that the applicant is not a tenant and that he, and anyone obtaining possession through him has no legal right to the rental unit for the following reasons:

- a. I accept the evidence of the representative of the respondent that the respondent does not have a tenancy relationship with the applicant and that this suite has not been rented since October 2014.
- b. The applicant failed to appear and give evidence to the contrary.
- c. The applicant failed to submit evidence in the form of a tenancy agreement, rent receipt, security deposit receipt or any other documentation that would support the allegation he has a tenancy agreement with the landlord.

Monetary Order and Cost of Filing fee

As a result I dismissed the application without leave to re-apply.

I determined the applicant does not have a tenancy relationship with the landlord and has no legal right to possession of the rental unit.

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: February 11, 2015

Residential Tenancy Branch

