



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, OLC, LRE, FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear this matter. This hearing dealt with the tenant’s application for:

- a monetary order for the cost of emergency repairs to the rental unit, pursuant to section 33;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of all or a portion of her security deposit, pursuant to section 38;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an order to suspend or set conditions on the landlord’s right to enter the rental unit, pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

While the respondent landlord attended the hearing by way of conference call, the applicant tenant did not, although I waited until 11:16 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m.

Rule 10.1 of the Rules of Procedure provides as follows:

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

The tenant attempted to cancel the hearing by way of email, sent on the date of this hearing, June 26, 2015, at 9:17 a.m. The tenant wrote:

Dear Madam/Sir:

I will be refiling for arbitration. The original hearing was set for today, June 26 at 11am.

The landlord stated he did not want to go to arbitration and attempted to negotiate 1/2 of what I was asking monetarily.

As we cannot agree, I'll kindly refile for arbitration and pay the filing fee again.

Thank-you for your understanding.

The tenant's email was not received by the Residential Tenancy Branch ("RTB") in time to cancel this hearing prior to the hearing time of 11:00 a.m.

The RTB *Rules of Procedure* ("*Rules*") apply to this hearing and these *Rules* are specifically referenced on the tenant's "notice of a dispute resolution hearing" form that would have been provided to the tenant when she filed her application. A link to the website for these *Rules* is contained on the notice.

Rule 6 of the *Rules* state, in part:

6.1 Rescheduling of a dispute resolution proceeding by consent more than three days in advance

*The Residential Tenancy Branch will reschedule a dispute resolution proceeding if **written consent from both the applicant and the respondent is received** by the Residential Tenancy Branch **before noon at least 3 business days before the scheduled date** for the dispute resolution proceeding.*

6.2 If consent to rescheduling the dispute resolution proceeding cannot be obtained

*If a party wants to request that a dispute resolution proceeding be rescheduled to another date because that party will be unable to attend the dispute resolution proceeding due to circumstances beyond his or her control, and if the opposing party does not consent to rescheduling the dispute resolution proceeding, **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:

- a) submitting to the Residential Tenancy Branch, at least 3 business days before the dispute resolution proceeding, a document requesting that the dispute resolution proceeding be rescheduled and setting out the circumstances that are beyond the party's control that will prevent him or her from attending the dispute resolution proceeding; or*
- 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.*

The tenant filed her application on May 8, 2015 and amended it on May 13, 2015. The tenant has been aware of the hearing date for some time. The tenant did not file any documentary evidence to support her application.

During the hearing, the landlord testified that he was not aware of any cancellation or adjournment request made by the tenant prior to this hearing. The tenant did not attempt to adjourn the hearing by consent, prior to the hearing date. The tenant did not confirm that her cancellation request had been accepted by the RTB. The tenant did not attend the hearing in order to withdraw her application or to cancel the hearing.

Accordingly, in the absence of the tenant's participation in this hearing or any evidence filed in support of her application, I order the tenant's application dismissed without leave 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: June 26, 2015

Residential Tenancy Branch