



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hotel Fountain
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT, MNDC

This matter was set for a telephone conference call hearing at 9:00 a.m. on this date. The line remained open while the phone system was monitored for 10 minutes. During this period, the respondent joined the hearing but the applicant did not.

After the hearing, I was advised that the tenant applicant had submitted a statement via fax on July 17, one business day before the hearing. In that statement, the applicant advised "I need more time am sick and not possible touch the phone right now" (reproduced as written). The applicant also provided a doctor's note dated July 9, 2015 (7 business days before the hearing) stating, "Please do hand therapy 'self guided' as per the instruction sheet for 6 weeks."

I understand the applicant's statement and accompanying doctor's note to be a request for an adjournment.

Section 6.2 of the Residential Tenancy Dispute Resolution Rules of Procedure provides that when a party to a proceeding is unable to obtain consent from the other party to adjourn the proceeding, the party must either provide a written request 3 days in advance of the hearing or appoint an agent to appear at the hearing to request an adjournment. The Rules of Procedure make it clear that the party must prove that they are unable to attend due to circumstances beyond their control.

In this case, the doctor's note submitted by the applicant shows that she was aware of whatever physical difficulties she was experiencing with her hand at least as early as July 9, which is 7 days prior to the hearing. The doctor's note does not state that she cannot use her hand to dial a telephone and the applicant's statement does not explain why she cannot dial a telephone.

I find that the applicant did not submit her request for an adjournment in accordance with the rules of procedure and I further find insufficient evidence to show that the

applicant was unable to participate in the hearing due to circumstances beyond her control.

As the applicant did not appear to advance her claim and did not follow the procedures required to request an adjournment and as the respondent appeared at the hearing and was prepared to proceed, I dismiss the application 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: July 20, 2015

Residential Tenancy Branch

