



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RPP

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on May 17, 2015. 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 for the return of personal property?

Background and Evidence

The parties entered into a 6 month fixed term written tenancy agreement that provided that the tenancy would start on June 1, 2014, end on December 1, 2014 and become month to month after that. The tenancy agreement provided that the tenant would pay a security deposit of \$900 on June 1, 2014. The tenant testified she paid a further \$900

by way of a deposit to hold the rental unit. The rent was \$1800 per month payable in advance on the first day of each month. The tenancy ended on April 30, 2015.

Law

The tenant delivered 24 pages of evidence to the Residential Tenancy Branch on June 25, 2015 (7 days before the hearing). The tenant has not served the landlord with this evidence.

Rule 2.5, 3.1, 3.11 and 3.14 of the Rules of Procedure include the following:

2.5 Documents that must be submitted with an application for dispute resolution

To the extent possible, **at the same time as the application is submitted to the Residential Tenancy Branch**, the applicant must submit to the Residential Tenancy Branch:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on at the hearing.

The only exception is when an application is subject to a time constraint, such as an application under *Residential Tenancy Act* section 38, 54 or 56 or an application under the *Manufactured Home Park Tenancy Act* section 47 or 49.

3.1 Documents that must be served

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and

f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

3.11 Unreasonable delay

Evidence must be served and submitted as soon as reasonably possible. If an Arbitrator determines that a party unreasonably delayed the service of evidence, the Arbitrator may refuse to consider the evidence.

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch not less than 14 days before the hearing.

I determined the delay in delivering the evidence to the landlord was unreasonable. The Rules of Procedure require the evidence be given to the respondent at least 14 days ahead of the hearing. The tenant stated the evidence was crucial to her case. However, rather refusing to consider the evidence I determined it was appropriate to dismiss the tenant's claim with leave to re-apply for the following reasons:

- Rule 1.1 provides as follows:

1.1 Objective

The objective of the Rules of Procedure is to ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants.

The tenant testified the evidence was crucial to a fair hearing of her claim.

- The landlord has claims which he has not yet but is entitled to make. I determined it was appropriate to have both claims heard together.
- There are significant disputes on the evidence between the parties which require each party to be given an opportunity to present the evidence they wish to rely on.

- It was not possible to proceed with the hearing today if the landlord was to be given a fair opportunity to consider the evidence and provide an appropriate response.

I determined it was not appropriate to grant an adjournment in the circumstances of this case.

As a result I order that the application be dismissed with liberty to re-apply. I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

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 02, 2015

Residential Tenancy Branch

