



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF; MNSD

Introduction

This hearing was convened in relation to the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

This was also convened in relation to the tenant's application for authorization to obtain a return of all or a portion of her security deposit pursuant to section 38 of the Act.

The tenant did not attend this hearing, although I waited until 1347 in order to enable the tenant to connect with this teleconference hearing scheduled for 1330. The landlord attended the hearing.

The landlord confirmed receipt of the tenant's dispute resolution package. The landlord stated that she wished to withdraw her claim as she had not been able to submit evidence because of a Canada Post error.

Preliminary Issue – Dismissal of Tenant's Claim for Failure to Appear

Rule 10.1 of the Rules of Procedure provides that:

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 tenant and in the absence of the tenant's participation in this hearing, I order the tenant's application dismissed without leave to reapply.

Preliminary Issue – Withdrawal of Landlord's Claim

At the hearing the landlord asked to withdraw her application. As the tenant failed to appear, there is limited prejudice to the tenant in allowing the landlord to withdraw her claim.

The landlord's application is withdrawn. This withdrawal does not prejudice the landlord's ability to advance this claim in the future; however, the landlord is cautioned that nothing in this decision extends the limitation period set out in section 60 of the Act.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's claim is withdrawn. The landlord is at liberty to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: September 24, 2015

Residential Tenancy Branch

