



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction, Preliminary and Procedural Matters-

This was the reconvened hearing dealing with the tenants' application for dispute resolution under the Residential Tenancy Act (the "Act").

The tenants applied for a monetary order for money owed or compensation for damage or loss under the Act, the tenancy agreement, or the Residential Tenancy Regulation and for recovery of the filing fee paid for this application.

This hearing began on May 6, 2015, was attended by the tenant "GB", the tenants' advocate, and the landlord's legal counsel and dealt only with the landlord's legal counsel's request for an adjournment. The tenants' advocate agreed to the adjournment and the hearing was adjourned.

An Interim Decision was entered on May 6, 2015, which is incorporated by reference and should be read in conjunction with this Decision. I ordered that the hearing be adjourned and reconvened in accordance with sections 6.3 and 6.4 under the Dispute Resolution Rules of Procedure (Rules) and section 64 of the Act.

During the period of adjournment, the tenants submitted a letter stating they "will be withdrawing this action at this time"; however, the tenants or their advocate were informed that unless the landlord or her legal counsel agreed to the abandonment or withdrawal, the tenants' file would remain open. The landlord's legal counsel was asked about the tenants withdrawing their application, and the legal counsel advised that that the landlord did not agree to a cancellation or abandonment of the tenants' application, as mentioned in a telefaxed response on September 14, 2015.

The parties were informed in the Interim Decision that the adjourned hearing would be conducted on the date and time contained in the enclosed Notice of Hearing letter, whether or not you are present

At the reconvened hearing, neither the tenants nor their advocate attended; however, the landlord and her legal counsel attended and were ready to proceed with the hearing.

Analysis and Conclusion

As the hearing had convened and was ongoing, I determined that it would be procedurally unfair and administratively unjust to the respondents to allow the tenants to withdraw their application during the period of adjournment. Additionally, the tenants failed to attend the reconvened hearing in order to present their request to withdraw.

In the absence of the tenants at the reconvened hearing to present their claim and due to the landlord and her legal counsel's attendance, pursuant to section 10.1 of the Dispute Resolution Rules of Procedure (Rules), I dismiss the tenants' 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: September 29, 2015

Residential Tenancy Branch

