Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD MNDC FF – Landlords' application
MNSD OLC FF –Tenant's application

Introduction

This hearing commenced on June 29, 2016 at 1:00 p.m. and continued 55 minutes; at which time the hearing time was about to expire. The parties were advised during the June 29, 2016 hearing that these matters had been adjourned to August 24, 2016 at 9:00 a.m. and oral orders were issued to both parties as stated in the written Interim Decision issued June 29, 2016. As such, this Decision must be read in conjunction with my June 29, 2016 Interim Decision.

No one was in attendance at the August 24, 2016 reconvened hearing.

Issue(s) to be Decided

1) Should the Landlords' application for Dispute Resolution be dismissed with or without leave to reapply?
2) Should the Tenant's application for Dispute Resolution be dismissed with or without leave to reapply?

Background and Evidence

The Landlords had submitted evidence that these matters related to a month to month tenancy agreement between the Landlord and two co-tenants which began on June 1, 2011. Rent as per the tenancy agreement was payable on the first of each month in the amount of $1,100.00 which was subsequently increased to $1,124.20 effective April 1, 2014 and $1,152.31 effective January 1, 2016. The Tenant(s) paid a security deposit of $550.00 on June 1, 2011. The Tenant(s) vacated the rental unit on or before December 7, 2015.

During the June 29, 2016 hearing both parties were advised that the hearing would be reconvened on August 24, 2016 at 9:00 a.m. Each party was issued an Oral Order that they were required to be represented at the August 24, 2016 reconvened hearing or a decision would be issued in their absence, pursuant to Rule of Procedure 7.10. The aforementioned order was confirmed in the written June 29, 2016 Interim Decision.

I informed both parties that they would be sent a copy of the Interim Decision and the Notice of Reconvened Hearing via regular mail. In addition, in consideration of a potential mail delivery strike, the Landlords provided their email address for the documents to be emailed if Canada Post had gone on strike. The Agent testified the Tenant would pick up a copy of the Interim Decision and Notice of Reconvened Hearing documents from the Residential Tenancy Branch (RTB).

As indicated above, no one was in attendance at the August 24, 2016 teleconference hearing. At the time of writing this Decision Canada Post had not gone on strike. Copies of the Interim Decision and Notice of Reconvened Hearing were mailed to each participant on July 4, 2016.

As per the RTB record the aforementioned documents which were sent to the Tenant were returned marked “Dont live here”. On July 28, 2016 at 9:27 a.m. the RTB staff attempted to contact the Tenant via the telephone number provided on her application for Dispute Resolution. A voice message was left for the Tenant with the following information: hearing date; time; and access code. The staff also explained in their message that the Tenant could pick up a copy of the documents from the RTB office, as originally requested, or she could call an Information Officer at the telephone number they provided her in their voice message.

The package containing the Interim Decision and Notice of Reconvened Hearing that was sent to the Landlords via Canada Post was never returned to the RTB.

As of August 29, 2016, there is no record of either party contacting the RTB to indicate they had not received the Interim Decision and Notice of Reconvened Hearing or were not able to call into the August 24, 2016 teleconference hearing.

Analysis

Section 62 (2) of the *Act* stipulates that the director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this *Act*.

Rule of Procedure 7.4 provides that evidence must be presented by the party who submitted it, or by the party’s agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered. Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

Rule 10.1 of the Rules of Procedure provides as follows:

> **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.

In the absence of the Landlords, the Tenant, or their agents, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of either party called into the hearing during this time.

Based on the aforementioned, pursuant to section 62 of the *Act;* and in consideration of the oral Orders issued to both parties on June 29, 2016 and confirmed in my Interim Decision; I find both the Landlords' application for Dispute Resolution and the Tenant's application for Dispute Resolution to be meritless. I make this finding in part, as insufficient evidence was presented during the hearing in support of either application, as per Rule of Procedure 7.4. Accordingly, each application for Dispute Resolution was dismissed, without leave to reapply.

Conclusion

No one was in attendance at the scheduled hearing. Both the Landlords' and the Tenant's applications for Dispute Resolution were found to be meritless and were dismissed, without leave to reapply.

This decision is final, legally binding, and 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: August 29, 2016

Residential Tenancy Branch