



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNC CNR MNDC ERP RP

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant(s) on July 14, 2016. The Tenant(s) filed seeking orders to cancel two Notices to end tenancy; orders for repairs; and a \$2,009.46 monetary order.

The hearing was conducted via teleconference and was attended by the Landlord and his Agent. No one was in attendance on behalf of the Tenant(s).

Issue(s) to be Decided

Should this application be dismissed with or without leave to reapply?

Background and Evidence

There was no additional evidence or testimony provided in support of the Tenant(s)' application as no one attended the hearing on behalf of the Tenant(s).

The Landlord's Agent provided affirmed testimony that the Landlord obtained an Order of Possession on July 25, 2016. She submitted that the Tenant(s) were removed by a bailiff on August 16, 2016.

Analysis

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.

In the absence of the applicant Tenant(s), the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Tenant called into the hearing during this time.

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.

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*.

In the absence of any submissions from the applicant Tenant(s) I find pursuant to section 62 of the *Act*, the Tenant(s) failed to prove the merits of their application. Accordingly, I order the application dismissed without liberty to reapply.

Section 55(1) of the *Act* stipulates that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The Landlord was issued an Order of Possession on July 25, 2016 and regained possession of the rental unit on August 16, 2016. Therefore, there is no requirement to issue the Landlord another Order of Possession pursuant to section 55 of the *Act*.

Conclusion

The Tenant(s) were found to have failed to prove the merits of their application and the application was 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: September 09, 2016

Residential Tenancy Branch