



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, ERP

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant stated that the landlord was served with the notice of hearing package via Canada Post Registered Mail on November 2, 2016. The landlord confirmed receipt of the package but that it was not retrieved from his mailbox until November 28, 2016. The landlord clarified that the package was not Registered Mail but express post which did not require a signature. The landlord stated that he was prepared to go ahead, but that he has not yet had an opportunity to respond to the tenant's claim with his own documentary evidence. In any event, I accept the affirmed testimony of both parties and find that the landlord was adequately served with the notice of hearing package as per section 90 of the Act.

The tenant stated that the documentary evidence package was sent to the landlord via Canada Post Registered Mail on November 21, 2016. The landlord confirmed receipt of this package, but states that he has not received the submitted 32 photographs. The tenant is unable to provide confirmation of service. I accept the evidence of both parties and find that the landlord was sufficiently served with the documentary evidence except for the 32 photographs provided. As such, I order that the tenant serve copies of the 32 photographs to the landlord by December 15, 2016 to allow the landlord to properly

respond to the tenant's claim. Failure to do so could result in the 32 photographs not being considered for the hearing.

I authorize the landlord to submit evidence in response to the tenant's claim no later than December 15, 2016. The landlord was cautioned that late evidence beyond December 15, 2016 may not be considered for the hearing.

The hearing was commenced, but due to extensive discussions and issues raised by both parties there was insufficient time to complete the hearing. The hearing was adjourned due to a lack of time. Both parties were cautioned that no additional evidence should be submitted and would not be accepted save the exceptions noted above.

It was clarified with both parties that the tenant seeks a monetary order (MNDC) for compensation of \$650.00 for the loss of wages due to attending court resulting in false allegations filed by the landlord's other tenant. The tenant also seeks an order for emergency repairs for:

- Improper installation of the laundry room door to prevent unlawful entry to the rental unit.
- Electrical wall outlet issues in the bedroom
- Hot Water Tank leaking into the rental unit.

The hearing shall proceed on these issues only.

On January 10, 2017 the hearing was reconvened with neither party in attendance. This matter was set for an adjourned conference call hearing at 9:00 a.m. on this date. Both parties failed to attend the hearing by way of conference call. I waited until 11 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

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.

Accordingly, in the absence of any evidence or submissions from either party and in the absence of both parties participation in this hearing, I order the application dismissed with leave to reapply. I make no findings on the merits of the matter. Leave 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: January 10, 2017

Residential Tenancy Branch