



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent and for compensation for damage or loss under the Act, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The female landlord, AD ("landlord") and the two tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that the male landlord, SD, the other landlord named in this application, would not be appearing at this hearing. This hearing began at 11:00 a.m. and ended at approximately 11:16 a.m.

Preliminary Issue – Inappropriate Behaviour by an Unidentified Person during the Hearing

At the outset of the hearing, the landlord confirmed that she might want to call her son as a witness at the hearing. I notified the landlord that any witnesses could not be present in the same room as her during the hearing because they were not permitted to hear testimony from the parties. The landlord then claimed that she did not want to call any witnesses. I asked the landlord to remove her telephone from the speakerphone function because I could hear other people talking, whispering and laughing in the background of where she was calling from. I notified both parties to ensure that they were in a quiet area during this conference because it was a serious legal proceeding. The landlord then assured me that she had removed her telephone from the speakerphone function.

While canvassing whether the parties wanted to settle the matter or engage in a full hearing with me issuing a decision, an unidentified female voice came on the line and began yelling at me. She mentioned some information that I had discussed during the

canvassing of settlement options with the parties, the time when the landlord had assured me that she had removed her phone from the speakerphone function. I believe the voice was coming from the landlord's side of the conversation because the landlord suddenly stopped speaking when this person came on the phone line. The tenants were not speaking at that time. No new phone numbers or participants had entered the conference during this time, as I was also monitoring the telephone line on my computer.

When I asked this unidentified person to identify herself, she kept yelling at me, without allowing me to speak. I notified her that I was the Arbitrator in control of the conference and that she had to identify herself in order to participate in the hearing or I would disconnect her from the call. She refused to identify herself and kept yelling at me, advising me that I could not disconnect her from the call and that she wanted to speak to my supervisor immediately.

I then entered the "lecture mode" function on the teleconference system which allows me to speak and mutes the other telephone lines in the conference so that everyone can only hear me and I cannot hear them respond back to me. During that time, I informed both parties that the unidentified person had to identify herself in order for me to determine whether she had a right to participate in the conference. Neither party had informed me that this unidentified person would be participating in the conference when I questioned the parties at the beginning of the hearing. I notified the parties that I would not tolerate anyone yelling at me during the hearing and that I would disconnect the unidentified person, if the hostile behaviour continued.

When I exited the "lecture mode" function, I asked the unidentified person to identify herself. She became upset and began responding to me while I was asking the question, so I could not hear what she said. When I asked her to repeat the information because I could not hear it while she was talking at the same time as me, she refused to answer my question. She then began talking rapidly about writs of possession and bailiffs. I attempted to disconnect the landlord's telephone line from the teleconference, but I was unsuccessful.

Rule 7.6 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following (emphasis added):

7.6 Identification of people present at a dispute resolution hearing
Each participant must identify all people who are present with them at the start and anyone who joins them at any time during a hearing.

The unidentified person refused to leave the conference or stop talking. I could not speak without her yelling at the same time as me and acting in a hostile manner. I could not conduct the conference or ask any questions. The tenants were unable to speak because the unidentified person would not stop talking. The landlord had an unidentified person join her during the hearing and this person and the landlord refused to identify the person. Therefore, after 16 minutes in the conference, I ended the hearing with all parties.

Rule 6.10 of the RTB *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

I caution the unidentified person not to engage in the same rude, hostile and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and she may be excluded from future hearings. This person **MUST** identify themselves if participating in a hearing. If this person is attempting to represent a party and engages in the same behaviour, a decision will be made in the absence of that party.

Conclusion

The landlord's application is dismissed with 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: March 17, 2017

Residential Tenancy Branch