



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, 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, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 30 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution hearing package on November 14, 2016, while the tenant was still living at the rental unit. She said that a former co-worker witnessed the service. She claimed that the witness was unavailable to testify at this hearing because she did not arrange for it ahead of time and no one told her that she needed the witness to testify or submit a written statement. In accordance with section 89 of the *Act*, I find that the tenant was served with the landlord's application on November 14, 2016.

Throughout the hearing, the landlord became upset and angry when I asked her relevant questions about her application. She asked me to repeat information and I did so, as well as rephrasing information, in order to assist her. The landlord claimed that she had not been through this hearing process before. I asked her whether she received the five-page "Landlord and Tenant Fact Sheet" from the Residential Tenancy Branch ("RTB") when she filed her application. Initially, she said no and then she claimed that she did. I also asked her whether she obtained assistance from an information officer at the RTB when she filed her application and she said that she did. The landlord asked why I was not helping her with her application and I notified her that my role was to make a decision based on her testimony and written evidence, not to provide legal advice or tell her how to present her claim. I informed her that she had to answer relevant questions in order for me to make a decision.

When I asked the landlord when this tenancy began, she claimed that it was sometime in October 2016. When I questioned her as to whether that was correct, since the written tenancy agreement she submitted indicated November 1, 2016, she became upset. She then asked me when it began and I notified her that I was not part of the tenancy so I did not know when the tenancy began.

The hearing began at 2:00 p.m. The landlord disconnected from the hearing without warning at 2:13 p.m., while I was talking to her about the start of tenancy date. I waited until 2:30 p.m. to see if the landlord would call back but she did not, so I ended the conference at 2:30 p.m.

Rule 7.3 of the RTB *Rules of Procedure* provides as follows:

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.

While I believe the landlord likely intentionally disconnected from the conference because she was upset with the information that I was providing to her and she was unprepared for the hearing, it is possible that there was a telephone connection issue, although the landlord should have called back from another line. Despite this and out of an abundance of caution, I dismiss the landlord's application with leave to reapply, except for the filing fee.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply. The remainder of 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: May 15, 2017

Residential Tenancy Branch