



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

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

- authorization to obtain a return of double the amount of the security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 17 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant's Application

The tenant testified that she did not know the date when she served the landlord with the tenant's application for dispute resolution hearing package. She said that it was sent by way of "certified mail." When I asked whether she had a tracking number to confirm whether it was sent by registered mail, she stated that she did not have the mail receipt in front of her. She said that her son had the information and she could call him to find out. I notified her that she could not exit the conference and call back in later as this was her chance to provide her evidence. I also informed her that I did not have a registered mail receipt on file, which she confirmed she did not provide. While I was speaking to the tenant, she did not answer so I asked whether she was still on the line. A few minutes later, the tenant confirmed that she left the conference to call her son so she did not hear my comments. I notified her that she could not leave the conference, as I had already cautioned her not to do so.

As per section 59(3) of the *Act*, the tenant is required to serve her application upon the tenant within three days of filing it. During the hearing, the tenant could not provide the

date of service of her application, nor could she provide the tracking number or the receipt for such service. When the tenant returned to the conference after having left it to make another call, she claimed that she obtained service information. I notified the tenant that, because she could not follow my instructions and participate fully in the conference, after having called in late and not having her evidence in front of her during the hearing, her application was dismissed.

At the hearing, I advised the tenant that her application was dismissed with leave to reapply, with the exception of the filing fee. I notified her that she could file a new application and pay a new filing fee, if she wished to pursue this matter further.

Preliminary Issue – Inappropriate Behaviour by the Tenant during the Hearing

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.

The tenant called in late to the hearing at 2:07 p.m., when the conference began at 2:00 p.m. When I asked why she was late, the tenant said that she was a counsellor and was working with a client. When I inquired as to why she was working when she was well aware of this hearing date and time, when she was the party who filed this application and knew about the hearing details on March 15, 2017, which is 2.5 months prior to this hearing date, she apologized for being late.

When I questioned the tenant about service of her application, she exited the call without warning to call her son, after I had cautioned her not to leave the conference. The tenant then returned to the conference and began arguing with me when I provided my reasons for dismissing her application. She then repeatedly asked what my name was and after I provided it to her and spelled it for her repeatedly, she continued arguing with me and interrupting me while I was talking. I ended the conference at 2:17 p.m. after notifying the tenant that my decision had been made.

I caution the tenant not to engage in the same inappropriate 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. In that event, a decision will be made in the absence of the tenant.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant'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: June 01, 2017

Residential Tenancy Branch