



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR FFL

Introduction

This hearing was convened in response to a review consideration decision rendered, pursuant to section 79 of the *Residential Tenancy Act* (the “Act”), on January 04, 2018, to reconsider an Order of Possession issued to the landlord following a decision issued through a Residential Tenancy Branch (RTB) *ex parte* Direct Request Proceeding on November 27, 2017, pursuant to section 55(4) of the *Act*.

In the original decision of November 27, 2017, the Adjudicator issued a two day Order of Possession based on unpaid rent and dismissed the landlord’s application for a Monetary Order for unpaid rent with leave to reapply. The landlord was granted a review hearing as it was determined in the review decision of January 04, 2018 that;

“...there is sufficient information before me to support the Tenant’s allegation that the original decision and order may have been obtained by fraud.”

In the decision the Arbitrator noted, among other items, that “the tenant’s signatures on the tenancy agreement relied upon by the Landlord and the cheques submitted by the tenant are markedly different” and that “the cheques submitted by the tenant suggested that rent was paid by the tenant.”

The landlord did not attend this hearing, although I waited until 9:43 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 9:30 a.m.

The tenant, the tenant’s assistant and a witness for the tenant attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that the Notice of a Review Hearing was served to the landlord by way of registered mail on January 19, 2018. The tenant provided the Canada Post Tracking Number to confirm this registered mailing which shows that the landlord

accepted this document on January 22, 2018. In accordance with section 89 of the *Act*, I find the landlord was duly served with the Notice of a Review Hearing.

Analysis

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

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.

Accordingly, **in the absence of any evidence or submissions from the applicant, I order the Application dismissed without liberty to reapply.**

Conclusion

The landlord's Application is dismissed, without leave to reapply.

The previous RTB decision and Order of Possession issued on November 27, 2017, is cancelled and of no force or effect.

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: February 06, 2018

Residential Tenancy Branch