



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order for double the security deposit and recovery of the filing fee.

This matter was set for hearing by telephone conference call at 1:30 P.M. (Pacific Time) on April 24, 2018, and was attended by the arbitrator and the Respondent, who is the agent for the Landlord (the “Agent”). Both the arbiter and the Respondent attended on time and ready to proceed. Rule 7.1 of the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Respondent attended the hearing on time, the hearing proceeded as scheduled. The teleconference line remained open for 10 minutes while we waited for the Applicant, who is the Tenant, to appear. Rule 7.3 of the Rules of Procedure states that 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 reapply. When the Applicant did not appear by 1:40 P.M. to present any evidence or testimony in support of his Application, his Application was dismissed without leave to reapply. I advised the Agent of the dismissal, answered a procedural question regarding the dismissal, and concluded the hearing.

As I was ending the conference call at 1:49 P.M. the Applicant called into the conference. I advised the Applicant that the hearing had been concluded and a decision had already been rendered and communicated to the Respondent. The Applicant stated that he had been waiting at the court house for the hearing to begin as that is what his paperwork stated. I advised the Applicant that the Notice of Hearing in the documentary evidence before me, which was provided to the Applicant by the Residential Tenancy Branch (the “Branch”) on September 25, 2017, states on page one, under the heading “Hearing Information”, that the hearing scheduled for 1:30 P.M. on Tuesday

April 24, 2018, will be conducted by telephone conference call. This section of the Notice of Hearing also provides the teleconference phone number, access code, and instructions for attending the telephone conference call.

In considering the Applicant's testimony that he did not attend the hearing on time due to misinformation in his paperwork, I note that the Respondent was able to attend the hearing on time based on the Notice of Hearing served on him by the Applicant. Further to this, although the Applicant alleged that his paperwork advised him to attend the court house in relation to this matter; he still called into the hearing, which suggests to me that he had before him the conference call information.

Based on the above, I find that the Applicant received ample notice of the date and time of the hearing and the instructions for attendance and I am not satisfied, based on the documentary evidence and testimony before me, that he was unable to attend the hearing on time due to circumstances that could not be anticipated and were beyond his control. Further to this, I note that at the time the Applicant called into the hearing, the matter had already been concluded and a decision had already been rendered and communicated to the Respondent in accordance with the *Act* and the Rules of Procedure. As a result of the above, I declined to reopen the hearing and the Tenant's Application is therefore dismissed without leave to reapply.

As the Tenant's Application was dismissed, I decline to grant him recovery of the filing fee.

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: April 24, 2018

Residential Tenancy Branch