



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking the return of a 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 July 17, 2018. At 1:30 P.M. I joined the conference call and only the agents for the Landlord (the “Agents”) were present. At the outset of the hearing the agents advised me that they were never served with a copy of the Application or the Notice of Hearing from the Applicant and that they only became aware of the hearing by way of an auto-generated e-mail from the Residential Tenancy Branch (the “Branch”). Although the line remained open while the phone system was monitored for several minutes, the Applicant did not appear.

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 Agents and I attended the hearing on time and ready to proceed and there was no evidence before me that the parties had agreed to reschedule or adjourn the matter, I commenced the hearing as scheduled. However, the ability to know the case against you and to provide evidence in your defence is fundamental to the dispute resolution process. As there is no evidence to the contrary, I accept the Agents’ testimony that the Landlord was never served with a copy of the Application and Notice of Hearing by the Tenant as required by the *Act* and the Rules of Procedure. As a result, I find that the Landlord did not have a full opportunity to know the case against them or to provide evidence in their defense.

Further to this, 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. Based

on the above, I therefore dismiss the Tenant's Application without 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: July 24, 2018

A handwritten signature in black ink, appearing to read 'K. Akow', is written over a horizontal line.

K. Akow, Arbitrator
Residential Tenancy Branch