



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This proceeding dealt with a tenant's application for a Monetary Order for damages or loss under the Act, regulations or tenancy agreement. A hearing was originally set for 1:00 p.m. on May 22, 2018, via teleconference call. On May 22, 2018 only the tenant appeared. I explored service of hearing documents upon the landlord and proceeded to hear the tenant's claims; however, the hearing time expired before the tenant's claims were fully heard. I ordered the hearing adjourned. The tenant provided an email address at which to receive the Notice for reconvened hearing and the Interim Decision. The Notice for the reconvened hearing and the Interim Decision were sent to the email address provided by the tenant. The Interim Decision should be read in conjunction with this decision.

The hearing was set to reconvene at 9:30 a.m. on July 18, 2018, via teleconference call. On July 18, 2018 neither the tenant nor the landlord appeared. I waited until 9:42 a.m. to enable the parties to participate in the reconvened hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice for the reconvened hearing. I also confirmed from the teleconference system that I was the only person who had called into this teleconference.

If a party needs to reschedule a hearing, the Rules of Procedure provide, in part:

5.1 Rescheduling of a dispute resolution hearing by agreement not less than three days before the hearing

The Residential Tenancy Branch will reschedule a dispute resolution hearing if signed written consent from both the applicant and the respondent is received by the Residential Tenancy Branch directly or through a Service BC Office not less than three days before the scheduled date for the dispute resolution hearing.

5.2 If agreement to reschedule the dispute resolution hearing cannot be obtained

When agreement to reschedule a hearing cannot be reached, a party or the party's agent may make a request at the hearing to adjourn the hearing under rule 7.8 [Adjournment after the dispute resolution hearing begins].

7.8 Adjournment after the dispute resolution hearing begins

At any time after the dispute resolution hearing begins, the arbitrator may adjourn the dispute resolution hearing to another time.

A party or a party's agent may request that a hearing be adjourned.

The arbitrator will determine whether the circumstances warrant the adjournment of the hearing.

7.10 Mandatory attendance

If the dispute resolution hearing is adjourned, the arbitrator will order the parties to attend on the date when the dispute resolution hearing will be reconvened. If a party does not attend the

reconvened hearing at the scheduled time, the arbitrator may commence, continue and conclude the hearing. Pursuant to Rule 7.3, the arbitrator may issue a decision and order in the absence of a party.

As provided under Rule 7.10 it was mandatory for the tenant to appear for the reconvened hearing since it was not rescheduled at least three days before the scheduled date with written agreement from the landlord. If the tenant were unable to proceed at the reconvened hearing, it was upon the tenant to have an agent attend and request an adjournment at the reconvened hearing. The tenant did not do this. Accordingly, I find Rule 7.3 applies. Rules 7.3 provides:

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.

As permitted in Rule 7.3, given the tenant's failure to appear at the reconvened hearing or send an agent to request an adjournment, I dismiss his application without leave to re-apply.

This decision shall also be emailed to the tenant at the email address he provided me at the original hearing of May 22, 2018.

Conclusion

The tenant's application is dismissed without leave to re-apply.

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 18, 2018

Residential Tenancy Branch