



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LUCKY 88 INVESTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD FFT

Introduction

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

- return of the security deposit pursuant to section 38 of the *Act*; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72 of the *Act*.

The landlord, who was the respondent in this matter, appeared at the date and time set for the hearing of this matter. The tenant, who was the applicant, did not attend this hearing, although I left the teleconference hearing connection open until 1:48 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that, to date, the tenant has never provided him with a forwarding address in writing. Further, the landlord testified that the tenant never served him with the Application for Dispute Resolution for this hearing. The landlord stated that he received an automatically-generated email from the Residential Tenancy Branch (RTB) regarding a dispute hearing. The landlord attended at the RTB where he was provided with the date, time, and telephone access code for this hearing.

Rules 7.3 and 7.4 of the Rules of Procedure explain the consequences of failing to attend a hearing, as follows:

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 reapply.

7.4 Evidence must be presented - Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

I find that in accordance with the principles of natural justice and Rule 7.4, I will not consider any evidence from the tenant in this matter as the tenant not did attend the hearing in order to present the evidence for cross-examination by the other party, or serve the evidence on the other party.

Therefore, in the absence of the tenant's attendance at this hearing, and in the absence of considering any of the tenant's evidence, I order the tenant's application in its entirety dismissed without liberty to reapply.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit?

Is the tenant entitled to recover the filing fee for this application?

Conclusion

As noted above, I dismiss the tenant's Application for Dispute Resolution in its entirety, 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: October 29, 2018

Residential Tenancy Branch