



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FFT

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. A monetary order in the sum of \$2695 for double the security deposit.
- b. An order to recover the cost of the filing fee.

The tenant(s) failed to appear at the scheduled start of the hearing which was 11:00 a.m. on September 13, 2018. Two representatives of the landlord were present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the scheduled start time in order to enable the tenant to call in. The tenant failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The representative of the landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

The landlords submitted that the Residential Tenancy Act does not apply and that I do not have jurisdiction. The tenant failed to appear at the hearing. The security deposit has been returned. I determined it was not appropriate to make a determination on jurisdiction as the matter is moot and I do not have the benefit of submissions from both parties.

However, I as a courtesy to the parties I referred them to section 4 of the Act which includes the following:

“What this Act does not apply to

4. This Act does not apply to

(g) living accommodation

(i) in a community care facility under the Community Care and Assisted Living Act,

(ii) in a continuing care facility under the Continuing Care Act,

- (iii) in a public or private hospital under the Hospital Act,
- (iv) if designated under the Mental Health Act, in a Provincial mental health facility, an observation unit or a psychiatric unit,
- (v) in a housing based health facility that provides hospitality support services and personal health care, or
- (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,”

The applicant has the burden of proof.

Rule 7.3 of the Rules of Procedure provides 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 re-apply.

As the applicant failed to appear and two representatives of the respondent were present I ordered that the application of the Tenant be dismissed without leave to re-apply.

This decision is final and binding on both parties.

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: September 13, 2018

Residential Tenancy Branch