



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing convened as a result of a “Landlord’s Application for Dispute Resolution” in which the Applicant requested an early end to tenancy pursuant to section 49 of the *Manufactured Home Park Tenancy Act* as well as recovery of the filing fee.

This matter was set for hearing by telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participants who called into the hearing during this time were the Respondents.

The Applicant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.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 Respondents and I were the only ones who had called into this teleconference.

The Respondents attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to submit documentary evidence, and to make submissions.

The Respondents stated that they do not have a tenancy with the Applicant; rather they have a tenancy with her former spouse, M.S. They confirmed that they have paid \$900.00 in monthly rent to M.S. for 11 months. They also provided in evidence proof of payment of rent to M.S.

Analysis and Conclusion

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

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 did not call into the hearing by 9:40 a.m., and the Respondents appeared and were ready to proceed, **I dismiss the Applicant's claim without leave to reapply.**

Although I have dismissed the Application on the basis that the Applicant failed to attend the hearing, I note the following. The evidence suggests the Respondents entered into a tenancy agreement with the Applicant's former spouse, M.S. The Respondents suggest the Applicant was aware of this, having reconciled with her spouse for a period of time during the tenancy. As such, the Applicant may not meet the definition of Landlord as provided for in the *Residential Tenancy Act*.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: August 29, 2019

Residential Tenancy Branch