



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord: OPR OPL-4M MNDL FFL

For the tenants: MNDCT OLC RP LRE FFT

Introduction and Preliminary and Procedural Matters

This hearing was convened as a result of an Application for Dispute Resolution (application) by both parties seeking remedy under the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, for an order of possession based on an undisputed 4 Month Notice to End Tenancy for Demolition, Renovation, or Conversion to Another Use, for a monetary order in the amount of \$11,868.82 for unpaid rent or utilities, and to recover the cost of the filing fee. The tenants applied for a monetary order in the amount of \$19,244.10 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for an order directing the landlord to make regular repairs to the unit, site or property, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, for an order to suspend or set limits on the landlord's right to enter the rental unit, site or property, and to recover the cost of the filing fee.

Two personal representatives, MD and MJ (personal representatives) of the Estate of JJ, Deceased attended the teleconference hearing. The hearing process was explained to the personal representatives and an opportunity was given to ask questions about the hearing process. The tenants did not attend the hearing. The tenants were provided with a copy of the Notice of a Dispute Resolution Proceeding after filing their application dated January 10, 2020. The tenants, however, did not attend the hearing set for March 10, 2020 at 9:30 a.m. Pacific Time. The phone line remained open for 34 minutes and was monitored throughout this time. The only persons to call into the hearing were the two landlord personal representatives.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 apply and state:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

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.

Based on the above, and following the ten-minute waiting period, **the application of the tenants was dismissed without leave to reapply.** The hearing continued with consideration of the landlord's application.

The two personal representatives testified that they did not serve the tenants with the landlord's Application for Dispute Resolution or the Notice of a Dispute Resolution Proceeding dated February 20, 2020 (Notice of Hearing). Both parties have a right to a fair hearing, and the tenants would not have been aware that the landlord made an Application for Dispute Resolution, without having been served with the landlord's application and Notice of Hearing and any related documentary evidence. Therefore, **I dismiss** the landlord's application **with leave to reapply** due to a service issue, as the landlord failed to serve the tenants with the landlord's application. The landlord is at liberty to reapply.

This decision does not extend any applicable timelines under the Act.

The filing fee for both parties are not granted due to the tenants failing to attend their hearing to present the merits of their application and due to a service issue for the landlord's application.

The personal representatives confirmed their email address during the hearing and confirmed their understanding that the decision will be emailed to the landlord and sent by regular mail to the tenants.

In addition to the above, and pursuant to section 64(3)(c) of the Act, the name of the landlord was corrected to properly reflect the name of the personal representatives.

Conclusion

The tenants' application has been dismissed without leave to reapply, as the tenants failed to attend the hearing to present their application.

The landlord's application has been dismissed with leave to reapply, due to a service issue.

The filing fees are not granted for either party.

This decision does not extend any applicable timelines under the Act.

This decision will be emailed to the landlord and sent by regular mail to the tenants as noted above.

This decision is final and binding on the parties, unless 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: March 11, 2020

Residential Tenancy Branch