



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, OPRM-DR, FFL

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 16 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The hearing began at 9:30 a.m. with only me present. The landlord called in late at 9:34 a.m., stating that she called a different number. The hearing ended at 9:46 a.m.

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. The direct request proceeding is based on the landlord's paper application only, not any submissions from the tenant. An "interim decision," dated April 3, 2020, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenant with a copy of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself.

The landlord stated that she received the interim decision on April 3, 2020. She said that she served her evidence to the tenant on May 5, 2020. She said that she did not know when she served the interim decision and notice of reconvened hearing to the tenant.

During the hearing, the landlord confirmed that the tenant had moved out of the rental unit, but two men were cleaning the rental unit and had not yet returned the keys.

Preliminary Issue – Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout the hearing, the landlord was searching through all of her paperwork to find a date of service for the interim decision and notice of reconvened hearing. I repeated the same question about service to the landlord. Each time, the landlord spoke at the same time as me and yelled at me. When I asked the landlord why she was yelling at me when I was asking her standard questions about service, she said that she did not understand the question.

When I repeated the same question and rephrased it numerous times to the landlord, she continued to yell at me. When I asked the landlord to stop yelling at me and interrupting me, so she could understand and answer my question, she continued with her inappropriate behaviour.

I could not conduct the conference because the landlord refused to allow me to speak or to ask any questions to conduct the conference. Every time I spoke, the landlord spoke at the same time as me, and continued yelling at me.

I warned the landlord that I would disconnect her from the conference if she continued with her hostile, inappropriate and disruptive behaviour; yet, this behaviour did not stop. Therefore, after 16 minutes in the conference, I ended the hearing with the landlord.

I caution the landlord to not to engage in the same behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and she may be excluded from future hearings. In that case, a decision will be made in the absence of the landlord.

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply, as the landlord was unable to proceed with the hearing. The remainder of the landlord's application is dismissed with leave to reapply.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply. The remainder of the landlord's application is dismissed with 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: May 26, 2020

Residential Tenancy Branch