



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

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

- authorization to obtain a return of double the amount of the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two landlords and the male tenant did not attend this hearing, which lasted approximately 17 minutes. The female tenant ("tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that she had permission to represent the male tenant at this hearing (collectively "tenants").

The hearing began at 11:00 a.m. with only me present. The tenant called in late at 11:09 a.m. The tenant claimed that she did not know she was supposed to call in for the hearing, she thought the Residential Tenancy Branch would call her. The hearing ended at 11:17 a.m.

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. The direct request proceeding is based on the tenants' paper application only, not any submissions from the landlords. An "interim decision," dated May 7, 2020, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The tenants were required to serve the landlords 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 tenant did not know what an interim decision was and repeatedly asked me what it was. After explaining several times what an interim decision was and that was the title of the document, the tenant still did not know.

The tenant did not know when she received the interim decision. She said that she did not get it. She then claimed that she got it on June 6, 2020, three days prior to this hearing. She did not know when or if she served the above documents to the landlords. She did not have her paperwork in front of her during the hearing, claiming that she had not cleaned her house and she had a lot of paperwork everywhere.

Accordingly, I find that the landlords were not served with the interim decision, notice of reconvened hearing and all other required documents, as per section 89 of the *Act*. The tenant did not know what an interim decision was, whether she got it, or whether she served it to the landlords.

I notified the tenant that the tenants' application was dismissed with leave to reapply, except for the filing fee. The tenants are required to file a new application, pay another filing fee and provide proof of service at the next hearing, if the tenants choose to pursue this matter further.

Conclusion

The tenants' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenants' 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: June 09, 2020