



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RIZE ATELIER WLY LIMITED
PARTNERSHIP and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPN, MNRL-S, FFL

Introduction

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

- an order of possession based on a tenant's notice to end tenancy, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 8 minutes. The landlord's agent ("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 landlord confirmed that she was the property manager for the landlord company named in this application and that she had permission to speak on its behalf.

At the outset of the hearing, the landlord stated that she did not require an order of possession because the tenant was no longer at the rental unit and the landlord was waiting the 30 days for it to be considered abandoned. She claimed that she was seeking the landlord's monetary application for unpaid rent. She later said that she wanted an order of possession, wanted my advice regarding same, and she was not sure what to do.

The landlord stated that the tenant was served with a copy of the landlord's application for dispute resolution hearing package on July 23, 2020, by way of registered mail. She provided a Canada Post tracking number verbally during the hearing. She explained that the mail was sent to the tenant's rental unit address.

When I asked the landlord whether the tenant was still living at the rental unit at the time of the above application mailing, she said that he was. When I asked her the last time that the landlord was aware that the tenant was still at the rental unit, since she claimed that he had left, she became extremely upset and agitated, raised her voice, and spoke at the same time as me.

The landlord stated that she was not “watching” the tenant on “surveillance cameras 24/7.” I notified her that she was not required to watch the tenant, I was simply inquiring as to when the landlord was last aware that the tenant was at the rental unit, since she claimed earlier that he had left. She continued to claim that she was not watching the tenant on surveillance cameras and he could have been entering and exiting the rental property without the landlord knowing. She maintained that the tenant could have last been there about 20 to 30 days ago, but she was not sure.

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.

Every time I asked a question or answered the landlord's questions, she became more upset, raising her voice and speaking the same time as me. I notified the landlord that I needed to be able to speak in order to conduct this hearing. I asked if she would allow me to speak in order to ask and answer questions. I asked why the landlord was so upset and she would not allow me to speak; yet, the landlord kept raising her voice and speaking at the same time as me.

The landlord claimed that she was asking for my advice about what to claim for in this application. I notified the landlord that my role as an Arbitrator was to make a decision about the landlord's application, not to provide legal advice. I notified her that she could hire a lawyer in order to obtain legal advice. The landlord became even more upset and continued speaking at the same time as me and raising her voice at me.

I cautioned the landlord twice that I would end the hearing if she did not allow me to speak and conduct the hearing. The landlord continued with her inappropriate behaviour, spoke at the same time as me, raised her voice at me, and would not allow me to speak. Therefore, after 8 minutes of this behaviour, I notified the landlord that the hearing was concluded, and I ended the hearing.

I caution the landlord to not 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: August 27, 2020

Residential Tenancy Branch