



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, MNSD, MNDCT**

Introduction

This hearing dealt with the s application pursuant to the *Residential Tenancy Act* (the “Act”) for:

- Authorization to recover the filing fee for this application from the opposing party pursuant to section 72;
- An order for the return of a security deposit or pet damage deposit pursuant to section 38; and
- A monetary order for damages or compensation pursuant to section 67.

The applicant/tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.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 landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing and testified that he was not served with the tenant’s Application for Dispute Resolution. The only notice he had of the hearing came from an email sent by the Residential Tenancy Branch. The landlord further testified that he was not the tenant’s landlord but was an employee of the company named on the tenancy agreement as the landlord.

Analysis

Rule 7.3 of the Rules of Procedure provides that if a party or their agent fails to attend a dispute resolution hearing, the arbitrator may conduct the hearing in the absence of that party, or dismiss the application with or without leave to re-apply.

Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written submissions supplied may or may not be considered.

Rule 6.6 states that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

The tenant did not attend the hearing which was scheduled by conference call at 1:30 p.m. As he did not attend, he did not prove to me he served the landlord with the Application for Dispute Resolution Proceedings Package as required by section 89 of the Act. Further, the tenant did not present evidence regarding the merits of his claim for me to consider, or satisfy me that on a balance of probabilities, the facts occurred as claimed.

For these reasons, I dismiss the tenants' application without leave to reapply.

Conclusion

The tenant's application is dismissed without 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 17, 2021

Residential Tenancy Branch