



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP FFT

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

- an order that the landlord to make repairs to the rental unit pursuant to section 33; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:41 am in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 am. 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. 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.

Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

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. In most circumstances this is the person making the application.

This is the tenants' application. As such, they bear the onus to prove their claim. As they failed to attend the hearing, I find that they have failed to discharge their evidentiary burden to prove that they are entitled to the order sought. Pursuant to Rule of Procedure 7.4, they (or their agent) must attend the hearing and present their evidence for it to be considered. As this did not occur, I have not considered any of the documentary evidence submitted by the tenants to the Residential Tenancy Branch in advance of the hearing.

I dismiss the tenants' claim, without leave to reapply.

I note that, at the hearing, the landlord denied that the tenant AD was, in fact, at tenant. I explicitly make no finding of fact on this issue. I include his name in the style of cause as

he is a named applicant on this application. I refer to “tenants” in this decision not because I have determined AD to be a tenant, but rather to reflect how the applicants to have made their claim. The landlord is free to argue this point at a future application.

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 9, 2021

Residential Tenancy Branch