



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

The Landlord applies for an order of possession pursuant to s. 55 of the *Residential Tenancy Act* (the “Act”), a monetary order for unpaid rent pursuant to s. 67, and for return of his filing fee pursuant to s. 72.

M.S.M. appeared on her own behalf as Respondent. The Landlord failed to attend and did not have some one attend on their behalf.

M.S.M. affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. M.S.M. confirmed that they were not recording the hearing.

Procedural History and Service of Reconvened Notice of Review Hearing

This is the third hearing of the Landlord’s application. On July 7, 2021, reasons in a direct request proceeding were issued that directed the matter be scheduled for a participatory hearing. The participatory hearing took place on August 5, 2021 and reasons were issued the same day granting the Landlord an order of possession and a monetary award for unpaid rent.

The respondent, M.S.M., applied for review considerations with respect to the monetary order on the basis that the Landlord had obtained the order by fraud. On August 13, 2021, a new hearing for this matter was ordered on the basis that there was evidence that the Tenant had paid rent for some of the months in which the Landlord indicated that she had not. As the Review Considerations makes clear, M.S.M., as the review applicant, was obliged to serve the Notice of Review Hearing upon the review respondent, in this case the Landlord.

M.S.M. advised that she served the Landlord with the Notice of Review Hearing by way of registered mail sent on August 17, 2021. A tracking number was submitted as evidence by M.S.M.. I find that the Respondent served the Notice of Review Hearing in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I deem the Landlord to have been served with the Notice of Review Hearing on August 22, 2021.

Applicant's Non-Attendance

The hearing began as scheduled at 11:00 AM on today's date in accordance with Rule 7.1 of the Rules of Procedure. I confirmed that the correct dial-in numbers and codes were provided within the Notice of Review Hearing. Rule 7.3 of the Rules of Procedure states:

7.3 Consequences of not attending the hearing

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

The hearing was conducted in the absence of the Applicant Landlord. After waiting on the line with M.S.M. for 10 minutes, the hearing was concluded without submissions from either party.

As is made clear by Rule 6.6, the onus is on the Landlord, as the applicant, to make out their claim. By failing to attend the hearing, the Landlord has failed to make out their claim. I hereby dismiss the application **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: December 03, 2021

Residential Tenancy Branch