



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-Dr, OPR-DR

Introduction

This hearing dealt with an Application for Dispute Resolution filed by Direct Request (the Application) by the Landlord under the *Residential Tenancy Act* (the *Act*), and was adjourned from an ex parte proceeding to a participatory hearing. In the Application the Landlord sought:

- An order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 day Notice); and
- Unpaid rent

The hearing was convened by telephone conference call and was attended by K.N., an agent for the Tenant, who provided affirmed testimony. The Landlord did not attend. The Notice of Dispute Resolution Proceeding states the date and time of the hearing, that the hearing will be conducted by telephone conference call, and provides the phone number and access code for the hearing. It also instructs participants that they are to call into the hearing themselves no more than five minutes before the start of the hearing. Records at the Residential Tenancy Branch show that the Landlord was sent the Notice of Dispute Resolution Proceeding Package, which contains the Notice of Hearing, by email on December 9, 2022. I confirmed that the details shown in the Notice of Dispute Resolution Proceeding were correct and I note that the Tenant's agent was able to attend the hearing promptly using the information provided to them by the Tenant from the Notice of Dispute Resolution Proceeding Package received from the Landlord. The Tenant's agent attended the hearing at the scheduled time, ready to proceed, and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Although the line remained open for 12 minutes, neither the Landlord nor an agent acting on their behalf appeared to provide evidence or testimony for my consideration.

The Tenant's agent was advised that pursuant to rule 6.10 of the Rules of Procedure, interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The Tenant's agent was asked to refrain from speaking over myself and any other participants that attended the hearing and to hold their questions and responses until it was their opportunity to speak. The Tenant's agent was also advised that pursuant to rule 6.11 of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and confirmed that they were not recording the proceedings.

Rule 7.1 of the Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Tenant's agent and I attended the hearing on time and ready to proceed and there was no evidence before me that the parties had agreed to reschedule or adjourn the matter, I commenced the hearing as scheduled at 9:30 A.M. on January 10, 2022. Rule 7.3 of the Rules of Procedure states that 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 reapply. As neither the Landlord nor an agent acting on their behalf attended the hearing to present any evidence or testimony for my consideration regarding the Landlord's Application, and I find that the Landlord bears the burden of proof in this matter, I therefore dismiss the Landlord's Application without leave to reapply.

Conclusion

The Landlord's Application seeking an order of possession based on a 10 Day Notice dated October 18, 2022, and recovery of unpaid rent are dismissed without leave to reapply.