



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WILDWOOD PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFT, OPT**

Introduction

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

1. An Order of Possession for the Tenant pursuant to Sections 54 and 62 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord's Agent, BS, attended the hearing at the appointed date and time and provided affirmed testimony. The Applicant did not attend the hearing. 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's Agent and I were the only ones who had called into this teleconference.

The Landlord's Agent was advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord's Agent testified that she was not recording this dispute resolution hearing.

The Landlord's Agent confirmed that the Applicant meant to personally serve the Landlord with the Notice of Dispute Resolution Proceeding package for this hearing on March 3, 2022 (the "NoDRP package"). The Landlord's Agent would not allow the Applicant to enter her office and advised the Applicant to drop the NoDRP package for the Landlord into the mailbox. The Applicant did this, and the Landlord's Agent confirmed receipt of the NoDRP package on March 3, 2022. I find that the Landlord was

sufficiently served with the NoDRP package for this hearing on March 3, 2022, in accordance with Sections 71(2)(b) and 89(1)(b) of the Act.

Issues to be Decided

1. Is the Applicant entitled to an Order of Possession for the rental unit?
2. Is the Applicant entitled to recovery of the application filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

This periodic tenancy began on September 30, 2020. Monthly rent was \$813.65 payable on the first day of each month, and on February 1, 2022 the rent was increased to \$827.40 per month.

The Landlord's Agent testified that the Tenant who did reside in the rental unit died on September 25, 2021. The Applicant in this matter is not a tenant for this rental unit, and also she no longer resides in the rental unit. At present, the Landlord has a direct request application in progress where they are seeking unpaid rent.

Analysis

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.

RTB Rule 7.3 provides as follows:

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 Applicant in this matter did not attend the hearing. The Applicant also did not provide any evidence for her claims. Based on the undisputed testimony of the Landlord's Agent, I find that the Applicant's claims are unfounded as the Applicant did

not attend the hearing and provide evidence on the matter and I dismiss her dispute resolution application in its entirety without leave to re-apply.

Conclusion

The Applicant's application for dispute resolution is dismissed without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: March 10, 2022

Residential Tenancy Branch