



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCT, RPP, FFT**

This hearing was convened as a result of the Tenants' Application for Dispute Resolution under the *Residential Tenancy Act* ("Act"). The Tenants applied for:

- a Monetary Order for compensation pursuant to section 67;
- an order for the Landlord to return the Tenants' personal property pursuant to section 65; and
- authorization to recover the Tenants' filing fee for this application from the Landlord pursuant to section 72.

The Tenants did not attend this hearing. I left the teleconference hearing connection open until 2:12 pm in order to enable the Tenants to call into this teleconference hearing scheduled for 1:30 pm. 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 Dispute Resolution Proceeding ("NDRP"). I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

The Landlord acknowledged he was served by the Tenants with the NDRP by registered mail on December 24, 2021. I find the Tenants served the NDRP on the Landlord in accordance with the requirements of section 89 of the Act.

Preliminary Matter – Effect of Non-Attendance by Tenants

Rule 6.6 of the *Residential Tenancy Branch Rules of Procedure* (“RoP”) 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. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

The Tenants bear the onus to prove they are entitled to a Monetary Order for compensation and an order the Landlord return the Tenants’ personal property. As they have not attended the hearing, they cannot discharge this onus. As such, I dismiss the Tenants’ claims for a Monetary Order for compensation and an order the Landlord return the Tenants’ personal property.

Rules 7.1, 7.3 and 7.4 of the RoP state:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

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 the party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

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 the hearing to present evidence, any written submissions supplied may or may not be considered.

Given the Tenants did not attend the hearing by 2:12 pm, the Tenants' application is dismissed without leave to reapply.

Conclusion

The Tenants' 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: March 29, 2022

Residential Tenancy Branch