



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OLC FFT

Introduction

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

While the respondent's legal counsel and Power of Attorney attended the hearing by way of conference call, the applicant did not. I waited until 11:20 a.m. to enable the applicant to participate in this scheduled hearing for 11:00 am.

Counsel for the respondent is concerned about the hardship that this matter has caused on their client. Counsel submits that this matter cannot be heard before the Residential Tenancy Branch as the applicant is not a tenant as the term is defined under the legislation.

Rule 7.3 of the Rules of Procedure 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

In this case, the applicant was not present to present submissions on jurisdiction, nor did the applicant make any written submissions in relation to the issue of jurisdiction. As the preliminary issue of jurisdiction needs to be decided before a hearing can proceed, and as the applicant or an agent for the applicant did not attend to make any submissions in this hearing, I order the application dismissed with liberty to reapply. I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

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: April 29, 2022

Residential Tenancy Branch