



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNSDS-DR, FFT**

Introduction

This hearing was convened as a result of the Tenants application for dispute resolution (“Application”) under the *Residential Tenancy Act* (the “Act”) for:

- an order for the return of the security deposit pursuant to section 38; and
- authorization to recover the filing fee for the Application from the Landlord pursuant to section 72.

The Tenants did not attend this hearing, although I left the teleconference hearing connection open until 2:09 pm in order to enable the Tenants to call into this teleconference hearing scheduled for 1:30 pm. One of the two Landlords (“RG”) 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 Hearing. I also confirmed from the teleconference system that RG and I were the only ones who had called into this teleconference.

RG stated the Landlords were not served with the Notice of Dispute Resolution Proceeding (“NDRP”). RG stated that the Landlords first became aware of the Application when they received an email from the Residential Tenancy Branch (“RTB”) to advise the hearing of the Application was imminent and provided the time and date. RG stated the Landlords called the RTB on June 21, 2022 and were provided with a courtesy copy of the NDRP. I find that the NDRP was sufficiently served on the Landlords pursuant to section 71(2)(b) of the Act.

RG stated the Landlords were not served with any evidence by the Tenants.

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.

Pursuant to Rule 6.6 of the RoP, the Tenants bear the onus to prove they are entitled to the claims made in the Application.

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 within 10 minutes of its commencement, pursuant to Rule 7.3 of the RoP I dismiss Application in its entirety without leave to reapply.

Conclusion

The Application is dismissed in its entirety 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: July 13, 2022

Residential Tenancy Branch