



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction, Preliminary and Procedural Matters-

This hearing was convened as a result of the tenants' application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for a return of their security deposit and pet damage deposit and recovery of the cost of the filing fee.

This dispute began as an application via the ex-parte Direct Request process and was adjourned to a participatory hearing based on the Interim Decision by an arbitrator with the Residential Tenancy Branch (RTB), dated February 3, 2022, which should be read in conjunction with this decision.

The arbitrator said the written tenancy agreement was not signed by the parties and therefore ordered the direct request process be reconvened to a participatory hearing.

The participatory hearing began at 11:00 p.m. Pacific Time on Thursday, September 29, 2022, as scheduled and the telephone system remained open and was monitored for 11 minutes. During this time, the tenants did not call into the hearing; however, representatives for the landlord were present and ready to proceed with the hearing.

I continued the hearing for 11 minutes, in order to allow the tenants to call into the hearing. During this time, the landlord referred to their documentary evidence showing that they had returned the tenants security deposit and pet damage deposit, and that the cheque was cashed.

Rules 7.3 and 7.4 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.

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.

Accordingly, in the absence of any evidence or submissions from the tenants at the hearing, **I order the application dismissed, without leave to reapply.**

As I did not consider the merits of the tenants' application, I dismiss their request to recover the filing fee, 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: September 29, 2022

Residential Tenancy Branch