



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the “Act”) for the following orders:

- a monetary order for the return of all or a portion of their pet damage deposit pursuant to sections 38; and,
- authorization to recover the filing fee for this application from the landlords pursuant to section 72 of the Act.

The landlords did not appear at the hearing.

AR, the tenant, appeared at the hearing and stated that they were having heart problems and unable to proceed with the hearing. AR requested an adjournment of the hearing for fifteen days. AR disconnected from the call before I could obtain any further information from them regarding the merits of their request for an adjournment.

Although I waited until 9:40 a.m. to enable the tenant to reconnect with the teleconference hearing scheduled for 9:30 a.m., the tenant did not reconnect.

As I was unable to gather any further information from the tenant regarding their request for an adjournment, I am unable to determine whether their circumstances warrant the adjournment of the hearing based on the criteria set out at Residential Tenancy Branch Rule of Procedure 7.9. As a result, the request for an adjournment is denied.

In accordance with Rule of Procedure 7.11, the hearing proceeded as scheduled in the absence of the tenant.

Rule of Procedure 7.4 discusses the requirement of a party to present their evidence and states the following:

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.

Rules of Procedure 6.6 establishes that the burden of proof in this case is on the tenant to prove their claims on a balance of probabilities. The tenant disconnected from the hearing prior to presenting their evidence. As a result, I find that the tenant has not met the burden which is upon them to prove their claim.

Based on the foregoing, the tenant's application is dismissed with leave to reapply.

The tenant is not entitled to recover the filing fee paid for this application from the landlords.

Conclusion

The tenant's application is dismissed with 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: May 31, 2023

Residential Tenancy Branch