



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC CNR
 OPR MNR FF

Preliminary Issues

At the outset of this proceeding the Tenant appeared and stated that she wished to withdraw their application. She stated that the Landlord also had a dispute which was scheduled under the same number as her claim.

Upon review of the Residential Tenancy Branch schedule there was no cross application listed as filed by the Landlord. I instructed the Tenant to contact the Residential Tenancy Branch if she had any other questions about the Landlord's file. The Tenant disconnected from the hearing at 1:01 p.m. and signed back into the hearing at 1:03 p.m. stating that her documents show the Landlord's application at this hearing number.

The Tenant confirmed she had not called the Branch for directions and disconnected from the hearing again. I remained on the line until 1:13 p.m. The Tenant did not call back into the hearing and no one on behalf of the Landlord called into the proceeding.

Upon further review of the electronic case management system, I determined that the Landlord had filed a cross application which was scheduled to be heard at the same time as the Tenants' application.

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed on October 22, 2013, seeking an Order of Possession for unpaid rent and a Monetary Order for unpaid rent or utilities and to recover the cost of the filing fee from the Tenants for this application.

The Tenants filed on October 16, 2013, seeking orders to cancel a Notice to end tenancy for unpaid rent and a Notice to end tenancy for cause.

The Tenant appeared at the scheduled teleconference hearing; however no one appeared on behalf of the Landlord.

Issue(s) to be Decided

1. Should the Landlord's application be dismissed with or without leave to reapply?

Background and Evidence

There was no background or evidence provided as the Tenants withdrew their application and no one appeared to present evidence on behalf of the Landlord.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the applicant Landlord, the telephone line remained open while the phone system was monitored for thirteen minutes and no one on behalf of the applicant Landlord called into the hearing during this time. Accordingly, in the absence of any evidence or submissions from the applicant Landlord I order the application dismissed without liberty to reapply.

Conclusion

I HEREBY DISMISS the Landlord's application, without leave to reapply.

The Tenants' application has been withdrawn.

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: November 27, 2013

Residential Tenancy Branch

