



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code: MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a monetary order for money owed or compensation for damage or loss under the Act.

The landlords appeared. An agent appeared for the tenants, although the tenants did not provide written authorize as required by the Residential Tenancy Branch Rules of Procedures.

This matter commenced on August 3, 2017, and was adjourned to today's date. The interim decision was made which should be read in conjunction with this decision.

Preliminary and procedural matters

At the outset of the reconvene hearing, the agent for the tenants requested an adjournment, as the tenants were out of the country. The agent stated that this was a planned holiday.

I have read the tenants' written submission, which reads in part,

"We will be in Egypt for a tour from October 20, 2017 and do not return until October 29, 2017".

[Reproduced as written]

Filed with the tenants' submission is an itinerary, which supports the tenants written submission; however, the itinerary does not confirm when these travel plans were arranged.

7.9 Criteria for granting an adjournment

Without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- the oral or written submissions of the parties;
- the likelihood of the adjournment resulting in a resolution;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;
- whether the adjournment is required to provide a fair opportunity for a party to be heard; and

- the possible prejudice to each party.

On August 3, 2017, this matter was adjournment for evidence issues; this was to give both parties a fair opportunity to be heard.

On August 3, 2017, I canvassed both parties as to their future availability. The tenants indicated that they would be away for the month of September 2017, and would be available after that date. This was recorded in the interim decision.

I accommodated the tenants' holiday schedule for September 2017, and my interim decision informed both parties, that they are expected to be at the reconvene hearing.

I find if the tenants had this holiday booked for October 20 to October 29, 2017, on August 3, 2017; it was their own neglect of not providing that information when it was requested from them or it was booked after the hearing. Either way, I find this was the neglect of the tenants.

I also note, the tenants claim is related to painting and wall repairs that occurred in 2012. The tenants' filed their application on March 10, 2017. I find the tenants had from 2012, to bring this claim forward, I find a five year delay is unreasonable.

I find any further delay is unfair, unreasonable, and highly prejudicial to the landlords. Therefore, I decline the tenants request for an adjournment.

Since the tenants are not present to provide evidence in support of their claim. I dismiss the tenants' application **without leave** to reapply.

Conclusion

The tenants' application is dismissed **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: October 27, 2017

Residential Tenancy Branch