



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL-S, MNDL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit, and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord attended the hearing and was given a full opportunity to be heard, to make submissions and to call witnesses. This hearing lasted approximately 13 minutes.

The hearing began at 9:30 a.m. with only me present. The landlord called in late at 9:39 a.m. He said that he had been trying for about 5 minutes to call in and he did not receive a document with the time to call in for this conference. When I told him that he received a notice of hearing and application to serve to the tenant with all that information, he said that he did not have it in front of him for this hearing. When I asked how he would proceed with the hearing without his application information, he said "I'm here now, let's proceed" and that he would figure it out and do it verbally.

The landlord then asked me who the tenant was in this application. I asked how he did not know who the tenant was if he filed this application. He said that he had a number of tenants to deal with, so he did not know. He then guessed that it was an unrelated male tenant that is not named on this application. I informed him that was incorrect. He then guessed it could be the female tenant named in this application. I informed him

that was correct but he would need to supply me with all the relevant tenancy information.

I asked the landlord how and when he served the tenant with his application for dispute resolution hearing package. He did not answer this question. As per section 89 of the *Act*, the landlord is required to serve the other party with his application, notice of hearing and any evidence he intends to rely upon.

I informed the landlord that this was a serious, legal proceeding. He said that he had a brain injury. I informed him that he could have an agent assist or represent him at this hearing.

Pursuant to section 59(2)(b) of the *Act*, an application must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. The purpose of the provision is to provide a tenant with enough information to know the landlord's case so that the tenant might defend herself. The landlord failed to supply any written evidence for this hearing, including a tenancy agreement, a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") for the order of possession, a rent ledger for the monetary order, or any other information.

Rule 6.6 of the Residential Tenancy Branch *Rules of Procedure* states the following:

6.6 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.

I ended the hearing at 9:43 a.m. when the landlord was not prepared to answer any of my questions about his own application or this tenancy. He was guessing about the tenant and his application. I thanked him for attending the hearing.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply, as the landlord was not prepared for this hearing.

The remainder of the landlord'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: October 10, 2019

Residential Tenancy Branch