



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a notice to end tenancy for cause.

The applicant Tenant did not appear at the scheduled hearing however the respondent Landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Has a valid 1 Month Notice to End Tenancy for cause (the Notice) been issued and served upon the Tenant in accordance with sections 47 and 52 of the *Residential Tenancy Act*?
2. If so, has the Landlord met the burden of proof to end this tenancy in accordance with the Notice, pursuant to section 47 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord and Agent affirmed they attended today's hearing to have the 1 Month Notice upheld. In the absence of the Tenant I dismissed his application at which time the Agent requested an Order of Possession so she could proceed in having the Tenant removed from the rental unit.

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 Tenant, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Tenant called into the hearing during this time. Based on the aforementioned I find that the Tenant has failed to present the merits of his application and the application is dismissed.

Section 55 of the Act provides that an Order of Possession **must** be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing. Accordingly I award the Landlord an Order of Possession effective May 31, 2012, the corrected effective date of the Notice, pursuant to section 53 of the Act.

Conclusion

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

The Landlord's decision will be accompanied by an Order of Possession effective May 31, 2012. This Order is legally binding and must be served upon the Tenant.

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 08, 2012.

Residential Tenancy Branch