



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to section 46 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice).

The Respondent's representative (the landlord) appeared at the date and time set for the hearing of this matter. The Applicant (the tenant) did not, although I waited until 11:25 a.m. to enable him to connect with this teleconference hearing scheduled for 11:00 a.m.

At the hearing, the landlord initially testified that there was very little rent owing from this tenancy and he was only interested in obtaining the money that was owed so that the tenancy could continue. During the hearing, the landlord stated that the amount owing was currently \$54.81. At the end of the hearing, the landlord made an oral request for an Order of Possession if the tenants' application for cancellation of the Notice to End Tenancy were dismissed.

Issues(s) to be Decided

Should the tenant's application to cancel the 10 Day Notice be allowed? Should the landlord be issued an Order of Possession?

Background and Evidence

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.

The only written evidence submitted by either party, other than the tenant's original application, was a one page tenant rent ledger submitted by the landlord. Most notably, neither party provided any copy of the 10 Day Notice, the central issue in this hearing.

Analysis

In the absence of any evidence or submissions from the applicants, I order the tenant's application dismissed without liberty to reapply.

Section 55(1) of the *Act* allows me to consider the landlord's oral request for an Order of Possession. However, I find that I have insufficient information from the landlord with respect to the landlord's 10 Day Notice to grant an Order of Possession to the landlord. With such scant evidence before me, I find that I have insufficient basis to uphold the landlord's 10 Day Notice and issue an Order of Possession. For this reason, I deny the landlord's request made at the end of this hearing for an Order of Possession.

The landlord said that he intended to attempt to obtain the amount owing from the tenant so that he would not have to apply for dispute resolution to obtain an end to this tenancy. If he were unable to resolve this, he indicated that he would have to include his filing fee in the amount of the monetary award he would be seeking against 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: June 28, 2012

Residential Tenancy Branch