



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to allow more time to make an application to cancel a notice to end tenancy, and to cancel a notice to end tenancy issued for cause.

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

Issue(s) to be Decided

1. Should the Tenant's application be dismissed with or without leave to reapply?
2. Did the Landlord appear at the teleconference hearing and make an oral request for an Order of Possession?

Background and Evidence

There was no additional evidence or testimony provided in support of the Tenant's application as no one attended on behalf of the Tenant.

The Landlord attended the hearing and made an oral request for an Order of Possession.

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.

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.

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.

Accordingly, in the absence of any submissions from the applicant Tenant I order the application dismissed without liberty to reapply.

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.

Conclusion

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

The Landlord has been granted an Order of Possession effective **Two (2) days** upon service to the Tenant.

This decision is legally binding and 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: January 31, 2013

Residential Tenancy Branch

