



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SANFORD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 8, 2013, by the Tenant to cancel a Notice to end tenancy issued for cause.

The Landlord(s) attended the scheduled teleconference hearing; however, no one on behalf of the Tenant appeared at the hearing despite this hearing being convened to hear matters pertaining to the Tenant's application.

Issue(s) to be Decided

1. Should the Tenant's application be dismissed with or without leave to reapply?
2. If dismissed, did the Landlord appear at the hearing and request an Order of Possession?

Background and Evidence

The Landlord provided affirmed testimony that a 1 Month Notice to end tenancy for cause was issued and posted to the Tenant's door on November 4, 2013, listing an effective date of December 9, 2013.

The Landlord stated that approximately one hour before the scheduled hearing he received a fax from someone indicating that they were acting as the advocate for the Tenant and were requesting an adjournment to the hearing. He attempted to call the number on this fax but it went straight to voicemail. The Landlord stated that he was not in agreement to an adjournment and that he attended this proceeding today to request he be granted possession of the unit.

There was no evidence provided on behalf of the Tenant as no one attended the hearing for the Tenant.

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 her 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 **December 31, 2013**, 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 **December 31, 2013**. 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: December 20, 2013

Residential Tenancy Branch

