



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT CNL MNDC ERP

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 27, 2013 by the Tenant to be allowed more time to make his application; to cancel a Notice to end tenancy issued for landlord's use of the property, obtain a Monetary Order, and order Landlord to make emergency repairs.

The applicant Tenant did not appear at the scheduled hearing however the respondent Landlord appeared and gave affirmed testimony.

### Issue(s) to be Decided

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

### Background and Evidence

The Landlord gave affirmed testimony that the Tenant was served a 10 Day Notice for unpaid rent and a 1 Month Notice to end tenancy for Cause; he was not given a Notice for Landlord's use. She filed her own application for dispute resolution, prior to the Tenant serving her with his application, which she received on December 7, 2013. Her hearing is scheduled to be heard tomorrow, January 23, 2013.

### 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.

#### Conclusion

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

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. 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: January 22, 2014

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Residential Tenancy Branch

