



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* ("Act"), I was designated to hear this matter. This hearing dealt with the tenant's application for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 3, 2015 ("1 Month Notice"), pursuant to section 47.

While the respondent landlord attended the hearing in person, the applicant tenant did not, although I waited until 11:38 a.m. in order to enable the tenant to attend this hearing scheduled for 11:00 a.m.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the dispute resolution proceeding: The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding 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 tenant's participation in this hearing, I order the tenant's application dismissed without leave to reapply.

Preliminary Issue – Landlord's Request for an Order of Possession

At the hearing, the landlord made an oral request for an Order of Possession if the tenant's application for cancellation of the 10 Day Notice was dismissed.

The landlord confirmed that he wished to rely on documentary evidence to establish the validity of the rent indicated on the 10 Day Notice that is the subject of this application. The landlord did not serve any documentary evidence to the Residential Tenancy Branch, regarding the tenant's application. The landlord confirmed that he personally

served the tenant with this documentary evidence but he could not recall the exact date of service and confirmed that no one witnessed this service. Accordingly, I found that the landlord was unable to prove service of these documents upon the tenant and I therefore advised the landlord that I was unable to consider this documentary evidence at this hearing.

I advised the landlord that as he was unable to establish the validity of the rent indicated on the 10 Day Notice, I was denying the landlord's request for an order of possession for unpaid rent.

I advised the landlord that he could make an application for dispute resolution to obtain an order of possession and submit any documentary evidence, which he intends to rely upon, with his application to the Residential Tenancy Branch ("RTB") as well as to the tenant.

Conclusion

The tenant's application to cancel the landlord's 10 Day Notice, dated June 3, 2015, is dismissed without leave to reapply.

The landlord is not entitled to an order of possession for unpaid rent.

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: July 30, 2015

Residential Tenancy Branch

