



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL FF

### Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on August 28, 2015. The Tenant filed seeking to obtain an order to cancel a 2 Month Notice to end tenancy for landlord's use and to recover the cost of the filing fee from the Landlord.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance for the Tenant despite this hearing being convened to hear matters pertaining to the Tenant's application.

### Issue(s) to be Decided

Should the Tenant's application be dismissed with or without leave to reapply?

### Background and Evidence

No additional evidence was provided in support of the Tenant's application as no one appeared at the teleconference hearing on behalf of the Tenant.

Landlord appeared and stated that he attended the hearing to request the Tenant be ordered to move out. Upon further clarification the Landlord requested that an Order of Possession be issued effective November 30, 2015.

### 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.

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 fourteen minutes and no one on behalf of the applicant Tenant called into the hearing during this time. 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.

In this case the Landlord appeared and requested an Order of Possession effective November 30, 2015. Accordingly I grant the Landlord's request for an Order of Possession, pursuant to section 55 of the *Act*.

#### Conclusion

The Tenant's application is dismissed, without leave to reapply and the Landlord was granted an Order of Possession.

The Landlord has been issued an Order of Possession effective **November 30, 2015 after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with Supreme Court and enforced as an Order of that Court.

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: November 04, 2015

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Residential Tenancy Branch

