



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end the tenancy for unpaid rent or utilities.

One of the named landlords attended the hearing, accompanied by his wife and his daughter. However, the line remained open while the phone system was monitored for 10 minutes awaiting the tenant, and despite making an application for dispute resolution, no one for the tenant attended. Therefore, I dismiss the tenant's application without leave to reapply.

The landlord gave affirmed testimony with respect to unpaid rent and testified that the tenant vacated the rental unit on March 15, 2016.

Analysis

The *Residential Tenancy Act* states as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.
- (2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:
- (a) a notice to end the tenancy has been given by the tenant;

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;

(4) In the circumstances described in subsection **(2) (b)**, the director may, without any further dispute resolution process under Part 5 *[Resolving Disputes]*,

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

In this case, I erroneously advised the landlord that a monetary order might be made, however, the *Act* does not permit me to do so without an application from the landlords. The *Act* does permit me to grant an Order of Possession, however the landlord testified that the tenant moved out of the rental unit and the landlords do not seek an Order of Possession. The landlords have not made an application for dispute resolution and therefore, I cannot make the monetary order requested for unpaid rent and utilities. The landlords are at liberty to make the application.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

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: April 08, 2016

Residential Tenancy Branch