



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNL, FF

Introduction

The matter was scheduled to be heard at 09.00 a.m. on this date to hear the tenants' application. The hearing went ahead as scheduled the landlord dialed into the conference call. The line remained open for 10 minutes; however, no one for the tenants dialed into the call.

Rule 7.1 of the Residential Tenancy Branch Rules of Procedure provides as follows:
Commencement of Hearing: The Dispute Resolution Hearing will commence at the scheduled time unless otherwise set by the Arbitrator. Rule 7.3 provides for the consequences of not attending the hearing and states: If a party or their agent fails to attend the hearing, the Arbitrator may conduct the hearing in the absence of that party, or dismiss the application with or without leave to reapply.

Based on the above I find that the tenant has failed to attend the hearing to present the merits of their application, and the respondent did attend and was ready to proceed. The tenants' application is therefore dismissed without leave to reapply.

The landlord requested an Order of Possession; however, in the landlord's documentary evidence provided for this hearing there is an email the landlord sent to the tenants on February 26, 2016 in which the landlord informed the tenants that as the landlord decided to sell the house the landlord has withdrawn the Two Month Notice to End Tenancy.

Even though I have no evidence to show the tenants accepted this withdrawal of the Two Month Notice I find it would not be in keeping with the principles of natural justice if I was to issue the landlord with an Order of Possession at this hearing as the landlord's evidence clearly shows he has withdrawn the Notice and it is likely that the tenants relied on this information and decided not to attend the hearing.

Conclusion

The tenants' application is dismissed in its entirety 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 06, 2016

Residential Tenancy Branch