



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 set for a telephone conference call at 9:00 a.m., in response to an Application for Dispute Resolution (the "Application") made the Tenant on May 5, 2016 to cancel a notice to end tenancy for the Landlord's use of the property, and to recover the filing fee from the Landlord.

The Landlord appeared for the hearing but there was no appearance by the Tenant despite the 20 minutes conference call hearing. The Landlord testified that she had been served notice of this hearing by the Tenant by registered mail.

Preliminary Findings

The Residential Tenancy Branch Rules of Procedure state that a 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.

As the Applicant Tenant failed to appear for the hearing and present the merits of the Application, and the Landlord appeared and was ready to proceed, I dismissed the Tenant's Application **without** leave to reapply.

Section 55(1) of the *Residential Tenancy Act* (the "Act") provides that if a tenant makes an Application to dispute a landlord's notice to end a tenancy, the director **must** grant an order of possession to the landlord **if** the notice to end tenancy complies with Section 52 of the Act.

In this case, the only evidence before me was: a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 5, 2016; and a typed letter dated April 30, 2016 informing the Tenant that the tenancy was being ended in 60 days time because the

rental unit was being listed for sale. These documents were provided by the Tenant in advance of this hearing.

The Landlord informed me that the issue of unpaid rent by the Tenant was being determined through separate Applications which had been made by both parties for a hearing that is scheduled to take place on June 14, 2016, the file numbers for which appear on the front page of this Decision. Therefore, I declined to make any legal findings in relation to the notice to end tenancy for unpaid rent as this issue is not before me and this hearing was not scheduled in response to the issue of unpaid rent.

The Landlord confirmed that the Tenant had not been served with a 2 Month Notice to End Tenancy for the Landlord's Use of the Property on the correct form, namely Residential Tenancy Branch form number 32. Therefore, as the typed notice to end tenancy dated April 30, 2016 does not comply with Section 52(e) of the Act which requires it to be in the approved form, I find that it is not a valid notice to end the tenancy. Therefore, I am unable to issue the Landlord with an Order of Possession. pursuant to Section 55(1) of the Act.

Conclusion

The Tenant failed to appear for the hearing. Therefore, the Tenant's Application is dismissed without leave to re-apply. I am unable to issue the Landlord with an Order of Possession to end the tenancy.

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: June 08, 2016

Residential Tenancy Branch