



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC CNR

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenants on August 9, 2016. The Tenants filed seeking orders to cancel a 1 Month Notice to end tenancy for cause and to cancel a 10 Day Notice to end tenancy for unpaid rent.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance on behalf of either Tenant.

The Landlord acknowledged receipt of copies of the Tenants' application for Dispute Resolution and Notice of hearing documents on October 2, 2016 at 8:00 p.m. The Landlord argued the hearing documents were received only one day before the hearing which did not provide him enough time to prepare a response. As such he requested these matters be dismissed.

Issue(s) to be Decided

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

Background and Evidence

The Landlord submitted testimony that he did not serve the Tenants a 1 Month Notice to end tenancy for cause. He stated that on August 3, 2016 he personally served the Tenants with a 10 Day Notice to end tenancy. The Landlord stated that he has since entered into a repayment agreement with the Tenants and has since withdrawn the 10 Day Notice. The Landlord confirmed that as of this hearing on October 4, 2016 there were no outstanding Notices to end tenancy.

There was no additional evidence or testimony provided in support of the Tenants' application as no one attended on behalf of either Tenant.

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. In this case, the hearing was scheduled for an oral teleconference hearing.

In the absence of the applicant Tenants, the telephone line remained open while the phone system was monitored for twelve minutes and no one on behalf of the applicant Tenants called into the hearing during this time.

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 any submissions from the applicant Tenants, I accept the Landlord's submissions that the 10 Day Notice to end tenancy issued August 3, 2016 had been withdrawn and that no 1 Month Notice was served upon the Tenants. Accordingly, the Tenants' application for Dispute Resolution is now moot. I further accept that there were no outstanding notices to end tenancy.

Conclusion

The Tenants' application was found to be moot as the 10 Day Notice issued August 3, 2016 was withdrawn by the Landlord and there was never a 1 Month Notice for cause issued.

This decision is final, legally binding, and 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: October 05, 2016

Residential Tenancy Branch

