



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause ('1 Month Notice') pursuant to section 47.

The Applicant (tenant) did not attend this hearing, although I waited until 1:45 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord's agent, JZ, attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's agent, JZ, testified on behalf of the landlord in this hearing and was given full authority by the landlord to do so by the landlord. JZ testified that the landlord delivered the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) to the tenant in person on November 5, 2016, with an effective date of November 15, 2016. The landlord entered into written evidence a copy of a mutual agreement to end the tenancy, with a move out date of January 31, 2017, but did not submit a copy of the 1 Month Notice. At the hearing, the landlord requested an Order of Possession for January 31, 2017 if the tenant's application for cancellation of the 1 Month Notice was dismissed.

Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

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.

Section 55(1) of the *Act* reads 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.

Analysis

In the absence of any evidence or submissions from the applicant, I order the tenant's application dismissed without liberty to reapply.

A copy of the 1 Month Notice was not submitted by the landlord for this hearing, although I did allow him to fax a copy to me after the hearing, which did not happen. As I have no way of verifying whether the landlord's 1 Month Notice complies with section 52 of the *Act* and there is no separate application from the landlord before me, I am unable to issue an Order of Possession to the landlord.

Conclusion

I dismiss the tenant's application for dispute resolution without leave to reapply.

The landlord remains at liberty to apply for an Order of Possession on the basis of either the 1 Month Notice or the mutual agreement to end this 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: February 1, 2017

Residential Tenancy Branch