



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an Order of Possession for cause pursuant to section 55, as well as authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Neither party attended at the appointed time set for the hearing, although I waited until 11:15 a.m. to enable them to participate in this hearing scheduled for 11:00 a.m.

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.

The landlord noted in their application that there was a related application. A decision was already made on this related application, after a hearing on February 15, 2017. That decision referred to the same 1 Month Notice to End Tenancy dated January 27, 2017. The arbitrator noted in their decision that "The one month Notice ending tenancy for cause issued on January 27, 2017 is withdrawn and has no force or effect. The landlords' hearing scheduled based on the January 27, 2017 Notice ending tenancy is cancelled by agreement."

This is therefore a second application for an Order of Possession pursuant to this 1 Month Notice. I therefore find that this current application is *res judicata* meaning the matter has already been conclusively decided and cannot be decided again. Accordingly, I dismiss the landlord's application.

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: March 2, 2017

Residential Tenancy Branch

