



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice"), pursuant to section 46.

This matter was set for hearing by telephone conference call at 9:30 am on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the respondent. Therefore, as the applicant did not attend the hearing by 9:40 am, and the respondent appeared and was ready to proceed, I dismiss the claim without leave to reapply.

While I have dismissed the tenant's application, I find that the absence of the landlord's 10 Day Notice in the written evidence prevents me from making a definitive conclusion as to the extent to which the landlord's 10 Day Notice complied with section 52 of the *Act* and was served in accordance with section 88 of the *Act*. While the landlord attended the hearing he was unable to provide evidence as to the date of the 10 Day Notice or when it was served on the tenant. Although I dismiss the tenant's application, I make no finding on the issuance of an Order of Possession as I find that the landlord has not met the burden of proof in establishing entitlement to any such Order.

Conclusion

The tenant's application is dismissed 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: March 7, 2017

Residential Tenancy Branch

