



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL OLC FF

Introduction

This hearing was scheduled to address the tenant's application pursuant to the Residential Tenancy Act ("the Act") for: cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use pursuant to section 47; an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62; and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend although the 11:00 a.m. teleconference continued until 11:22 a.m. The respondent/landlord was present. With respect to the tenant's failure to attend this hearing, Rule 10.1 of the Rules of Procedure provides as follows:

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding 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 the applicant/tenant's participation in this hearing to support their application, **I order the tenant's application dismissed without liberty to reapply.**

Issue re: Order of Possession

I note that 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.

The tenant made an application to dispute the landlord's notice to end tenancy. The tenant did not attend to support her application. However, the landlord's notice to end tenancy did not comply with section 52 of the Act: it was not provided to the tenant on the required Residential Tenancy Branch form and lacked vital information for a notice to end tenancy. Therefore, in this particular circumstance **the landlord is not entitled to an Order of Possession pursuant to section 55(1) of the Act.**

Conclusion

I dismiss the tenant's application 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: July 24, 2017

Residential Tenancy Branch