



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL, DRI

Introduction

This hearing was convened in response to an application by the tenant to cancel a Notice to End for Landlord's Use of Property and to dispute an additional rent increase. The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated June 28, 2017 after filing their application. The tenant, however, did not attend the hearing set for today at 11:00 a.m. The phone line remained open during the hearing for a minimum of 10 minutes and was monitored throughout this time. The only party to call into the hearing was the respondent landlord. As a result, the tenant's application was preliminarily **dismissed**, without leave to reapply. The landlord testified the tenant still resides in the unit. Neither party submitted written evidence to this matter. The landlord was permitted to fax their copy of the Notice to End dated June 22, 2017 by the end of this date, however, by the date of this Decision it has not been received.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Analysis

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result their application to set aside a 2 Month Notice for Landlord's Use and ancillary items has been dismissed. **Section 55** of the *Act* provides that if a tenant's application to dispute a Notice to End Tenancy is dismissed or the landlord's notice is upheld the

landlord is entitled to an Order of Possession if the landlord's Notice complies with Section 52 of the Act. In relevant part **Section 55** states as follows;

Order of possession for the landlord

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.

In the absence of document evidence respecting the Notice to End in this matter, I find I am prevented from determining the validity of the landlord's Notice and as a result the landlord is not entitled to an Order of Possession pursuant to Section 55(1).

Conclusion

The tenant's application is dismissed

This Decision is final and binding.

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: September 08, 2017

Residential Tenancy Branch