



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC LRE MNSD FF O

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47;
- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Although the tenant did not submit the One Month Notice into evidence, I allowed the landlord until the end of the business day on the day of the hearing to submit a copy. I find that the landlord did not submit a copy of the One Month Notice by the deadline given.

Analysis

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.

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

Section 55(1) of the *Act* reads as follows:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (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.*

Although I dismissed the tenant's application, the landlord failed to provide a copy of the One Month Notice and I am not able to determine if the One Month Notice is in compliance with section 52 of the *Act*.

For the above reason I am not able to issue an Order of Possession to the landlord and this tenancy will continue until ended in accordance with the *Act*.

Conclusion

The tenant's application is dismissed, without leave to reapply.

This tenancy will continue until ended in accordance to the *Act*.

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: November 03, 2017

Residential Tenancy Branch