



Dispute Resolution Services

Page: 1

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;

The tenant did not attend this hearing, although I waited until 11:13 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlords attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Landlord JA.M. (the landlord) indicated that he would be the primary speaker for the landlords.

The landlord acknowledged receipt of the Application for Dispute Resolution (the Application). In accordance with section 89 of the *Act*, I find that the landlords were duly served with the Application.

The landlord testified that the tenant has moved out and they have possession of the rental unit

Analysis

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

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:

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 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.*

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a notice to end tenancy, the landlord is entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*.

As the landlord testified that that the tenant has vacated the rental unit and that the landlords have possession of the rental unit, I do not issue an Order of Possession.

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: January 29, 2018

Residential Tenancy Branch