



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 28, 2017 ("10 Day Notice"), pursuant to section 46; and
- an order requiring the landlord to comply with the Act, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62.

The landlord and his agent and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that his agent had permission to speak on his behalf at this hearing. The tenant intended to call a witness at the hearing, so the witness was excluded from the outset. This hearing lasted approximately 32 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's written evidence package. In accordance with sections 88, 89 and 90 of the Act, I find that the landlord was duly served with the tenant's application and the tenant was duly served with the landlord's written evidence package.

At the outset of the hearing, the tenant confirmed that she vacated the rental unit and was not planning to return to it. She confirmed that she did not require the relief in her application but she wanted to pursue a monetary order. Accordingly, I notified her that her application was dismissed without leave to reapply because she was asking for orders relating to an ongoing tenancy. I informed her that she would be required to file a new application to obtain a monetary order, if she wished to do so.

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 10 Day Notice, the landlord is entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*. Since the tenant has already vacated the rental unit, I decline to issue an order of possession to the landlord as it is not required.

Conclusion

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

The landlord is not entitled to an order of possession.

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 02, 2018

Residential Tenancy Branch