



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated January 2, 2018 ("1 Month Notice"), pursuant to section 47; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The applicant tenant did not attend this hearing, which lasted approximately 16 minutes. The respondent landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The hearing began at 11:00 a.m. with only me present and the landlord called in late at 11:05 a.m. stating that she was trying to track the tenant down who had abandoned the rental unit. The hearing ended at 11:16 a.m.

The landlord confirmed that she received a copy of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

Rule 7.3 of the Residential Tenancy Branch *Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of any appearance by the tenant, I order the tenant's entire application dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 1 Month Notice, the landlord is entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*.

The landlord testified that she issued the 1 Month Notice in error because the tenant was only late two times, not three times, in paying rent. She also confirmed that the tenant abandoned the rental unit and her friend was able to gain access to the rental unit through a side door. For the above reasons, I do not issue an order of possession to the landlord.

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 05, 2018

Residential Tenancy Branch