



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNL, FF

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for landlord's use of property and for the recovery of the filing fee.

This matter was set for a conference call hearing on this date at 10:30 am. Despite having made application for dispute resolution, as of 10:40 a.m. the applicant/tenant had not called into the conference call. The respondent/landlord called in.

### **Analysis:**

Since the applicant did not call into the conference call, her application is dismissed without leave to reapply. Accordingly, the notice to end tenancy is upheld. The effective date of the notice was March 31, 2018.

Section 55 of the *Residential Tenancy Act* addresses an order of possession for the landlord and states:

### **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.

The landlord testified that he served the notice to end tenancy on the tenant because he intended to demolish the rental unit. The landlord further added that he had applied for a demolition permit but at the time he served the notice to end tenancy he had not obtained the permit. The landlord also stated that even at the time of this hearing he did not have the permit in hand.

In this case, I find that the landlord served the tenant with a notice to end tenancy for landlord's use of property and check marked the box that states:

*"The landlord has all the necessary permits and approvals required by law to demolish the rental unit"*

Since the landlord did not have the necessary permits in hand at the time he served the notice to end tenancy, I find that the notice does not comply with section 52 (*form and content of notice to end tenancy*).

Even though the tenant did not attend the hearing and I have dismissed the tenant's application for dispute resolution, I find that the notice did not comply with content component of section. 52 of the *Act*, and therefore does not satisfy the provisions of section 55 1 (a) and must be set aside. Accordingly the landlord is not entitled to an order of possession.

### **Conclusion**

The tenant's application is dismissed. The notice to end tenancy is not valid and accordingly is set aside. The tenant must bear the cost of filing her application.

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: April 05, 2018

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Residential Tenancy Branch