



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, FFT

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on May 25, 2018 (the “Application”). The Tenant disputed a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 15, 2018 (the “Notice”). The Tenant also sought reimbursement for the filing fee.

The Tenant did not appear at the hearing. K.L. appeared at the hearing as agent for the Landlord. K.L. confirmed the Tenant is still living at the rental unit. K.L. advised the Landlord is seeking an Order of Possession.

I waited 10 minutes, until 11:10 a.m., to allow the Tenant to participate in this hearing scheduled for 11:00 a.m. The Tenant did not call into the hearing. I proceeded with the hearing in the absence of the Tenant.

I explained the hearing process to K.L. who did not have questions when asked. K.L. was given an opportunity to present relevant oral evidence, make relevant submissions and ask relevant questions. K.L. provided affirmed testimony. I have considered all evidence of K.L. I will only refer to the evidence I find relevant in this decision.

### Issue to be Decided

1. Should the Landlord be issued an Order of Possession under section 55 of the *Act*?

### Background and Evidence

The Notice states the Tenant failed to pay rent in the amount of \$1,100.00 that was due May 1, 2018. However, K.L. testified that the \$1,100.00 indicated on the Notice is not

for outstanding rent but for an outstanding repair bill. K.L. said she sent the Tenant the wrong notice to end tenancy.

### Analysis

Rule 7.3 of the Rules of Procedure states that an arbitrator can dismiss an application for dispute resolution without leave to re-apply if a party fails to attend the hearing.

Here, the Tenant failed to attend the hearing and provide evidence regarding her dispute of the Notice. In the absence of evidence from the Tenant regarding the basis for her dispute, the Application is dismissed without leave to re-apply.

Section 55 of the *Residential Tenancy Act* (the “*Act*”) requires an arbitrator to issue an Order of Possession if a tenant applies to dispute a notice to end tenancy, the application is dismissed and the notice complies with section 52 of the *Act*.

Section 52 of the *Act* outlines the form and content required for a notice to end tenancy issued under the *Act*. Section 52(d) of the *Act* requires the notice to include the grounds for ending the tenancy.

Section 46 of the *Act* allows a landlord to issue a notice to end tenancy if a tenant fails to pay rent or utilities. This section does not permit a landlord to issue a notice to end tenancy for an unpaid repair bill.

In my view, the Notice does not list the grounds for ending the tenancy and therefore does not comply with section 52(d) of the *Act*. According to K.L., the grounds for ending the tenancy relate to an unpaid repair bill. This is not stated in the Notice. Even if it was stated in the Notice, this is not a ground for ending a tenancy under section 46 of the *Act*. The Notice states the reason for ending the tenancy is \$1,100.00 in unpaid rent; however, this amount does not actually relate to unpaid rent.

I cannot find that the Notice is a valid notice to end tenancy issued under section 46 of the *Act* or that it complies with section 52 of the *Act*. Therefore, I decline to issue an Order of Possession based on the Notice under section 55 of the *Act*.

The Landlord may want to call the Residential Tenancy Branch and speak to an Information Officer about ending a tenancy under section 47 of the *Act*.

Conclusion

The Application is dismissed without leave to re-apply.

I decline to grant the Landlord an Order of Possession as the Notice does not comply with section 52 of the *Act* as required by section 55 of 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 *Act*.

Dated: July 17, 2018

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Residential Tenancy Branch