



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNQ, FFT

Introduction

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

- cancellation of the landlord's Two Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:12 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

At the outset of the hearing the landlord testified that the tenant has moved out of the rental unit and that they now 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 applicants, I order the application dismissed without liberty to reapply.

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*.

Since the landlord testified that they do not require an order of possession, I do not issue an order of possession to the landlord.

Conclusion

I dismiss the tenant's Application in its entirety, 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: August 14, 2018

Residential Tenancy Branch