



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy.

The tenant applied for cancellation of the landlord's One Month Notice to End a Tenancy for Cause (the One Month Notice) pursuant to section 47.

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m.

The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

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.

The landlord confirmed that they received the Application for Dispute Resolution (the Application). In accordance with section 89 of the Act, I find that the landlord is duly served with the Application.

Although the One Month Notice was not submitted into evidence, I allowed the landlord until the end of the business day on the day of the hearing to submit a copy. I find that the tenant is not prejudiced by accepting the One Month Notice as late evidence as the tenant confirmed in this Application that the One Month Notice was served to them on August 22, 2018, and is the reason that the tenant made this Application.

Analysis

In the absence of any evidence or submissions from the applicant, I order the application dismissed without liberty to reapply.

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the *Act*.

Although I dismissed the tenant's application, I find that the landlord failed to provide a copy of the One Month Notice and I am not able to determine if the One Month Notice is in compliance with section 52 of the *Act*.

For the above reason I am not able to issue an Order of Possession to the landlord and this tenancy will continue until ended in accordance with the *Act*.

Conclusion

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

This tenancy will continue until ended in accordance to 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 *Residential Tenancy Act*.

Dated: October 17, 2018

Residential Tenancy Branch