



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on September 26, 2018, wherein the Tenant sought to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as well as more time to make such an application pursuant to section 66 of the *Residential Tenancy Act*.

The matter was set for hearing by telephone conference call at 11:00 a.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Respondent Landlord.

The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:17 a.m.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

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

Analysis and Conclusion

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

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.

As the Tenant did not call into the hearing by 11:17 a.m., and the Landlord appeared and was ready to proceed, I dismiss the Tenant's claim without leave to reapply. The tenancy shall end in accordance with the Notice.

In the normal course a Landlord would be entitled to an Order of Possession pursuant to section 55 of the *Residential Tenancy Act*. For clarity I reproduce that section as follows:

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.

However, in this case neither party submitted a copy of the Notice in evidence such that I was unable to make any findings as to whether it complied with section 52 of the *Act*. Accordingly I am not able to grant the Landlord an Order of Possession.

The Landlord advised that she has made an application for an Order of Possession and monetary compensation based on the Notice; she further advised that the hearing of her Application is set for November 29, 2018. I have included the file number for that hearing on the unpublished cover page of this my Decision.

The Landlord further advised that it appears as though the Tenant has vacated the rental unit although she has left items in the unit. The Landlord was reminded to consider Part 5 of the *Residential Tenancy Regulation* as it relates to abandonment of property.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: November 6, 2018

Residential Tenancy Branch