



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the tenants' application to:

- Cancel a landlord's 10 Day Notice to End Tenancy For Unpaid Rent ("10 Day Notice") pursuant to section 46 of the *Act*.

Only the respondent landlord attended the hearing by conference call which lasted approximately ten minutes.

The landlord explained the tenants had vacated the rental unit on November 4, 2018.

Analysis

While the Respondent attended the hearing by way of conference call, the Applicant did not, although I waited until 9:40 A.M. in order to enable the Applicant to connect with this teleconference hearing scheduled for 9:30 A.M. The Respondent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Rule 7.1 of the Rules of Procedure provides as follows:

7.1 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.

Section 55(1) of the *Act* reads 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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(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.

No copy of the notice to end tenancy was provided to the hearing by either party. The landlord said the tenants had vacated the property on November 4, 2018. As the tenants failed to attend the hearing and present any evidence related to their application, I find their application is dismissed without leave to reapply.

The landlord said he did not require an order of possession as the tenants had vacated the rental property.

Conclusion

The tenants application to cancel the landlord's notice to end tenancy is dismissed 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: November 29, 2018

Residential Tenancy Branch