



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNR ERP FFT

### **Introduction**

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

- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*; and
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46 of the *Act*.

While the landlord's agent, MR, attended the hearing by way of conference call, the tenant did not. I waited until 11:11 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As the landlord confirmed service of the tenant's application and evidence, I find that the landlord was duly served with the tenant's application and evidence in accordance with section 89 of the *Act*.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 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.

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

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 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.

Section 52 of the *Act* requires that the above Notice complies with the *Act*, specifically, that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) state the grounds for ending the tenancy, and (e) be in the approved form.

As neither party provided a copy of the 10 Day Notice for this hearing, I am unable to verify that the Notice complies with the requirements of section 52 of the *Act*. Under these circumstances, I decline to grant the landlord an Order of Possession. This tenancy is to continue until ended in accordance with the *Act*.

### **Conclusion**

I dismiss the tenant's application for dispute resolution without leave to reapply. The tenancy is to continue until ended in accordance with 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: January 18, 2019

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Residential Tenancy Branch