



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SPRUCE CAPITOL TRAILER PARK LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, RP, RR

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

This matter was set for a conference call hearing at 9:00 a.m. on this date. The tenant did not attend. The landlord's agent and the owner attended the hearing via conference call and provided testimony. The landlord confirmed receipt of the tenant's notice of hearing package and the submitted documentary evidence.

I waited until 34 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

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.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenant and in the absence of the tenant's participation in this hearing, I order the application dismissed without leave to reapply. I make no findings on the merits of the matter.

The landlord sought relief of the situation by asking for an order of possession to enforce the 10 Day Notice dated May 19, 2019.

Extensive discussions with the landlord's agent and the owner clarified that the landlord's 10 Day Notice was deficient in that it included non-rent claims. The landlord stated that it included late rent payment fees and a monthly payment in which the landlord termed it a "rent to own" option payment. As such, the 10 Day Notice dated May 19, 2019 is cancelled.

Conclusion

The 10 Day Notice dated May 19, 2019 is set aside and the tenancy shall continue. The tenant's requests for repairs and a reduction in rent are 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: July 09, 2019

Residential Tenancy Branch