



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLDWELL BANKER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNR, RR

Introduction

This hearing was convened in response to an application by the tenant primarily to cancel a 10 Day Notice to end Tenancy for Unpaid Rent, of which I do not have benefit of a copy.

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated June 21, 2019 after filing their application. The tenant, however, did not attend their hearing set for today at 9:30 a.m. The phone line remained open during the hearing for a minimum of 10 minutes and was monitored throughout this time. The only party to call into the hearing was the respondent landlord. As a result, the tenant's application was preliminarily **dismissed**, without leave to reapply. The landlord testified the tenant vacated the rental unit in, "early July" 2019.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Analysis

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result their application to set aside a 10 Day Notice to End Tenancy for Unpaid Rent has

been dismissed. **Section 55** of the *Act* provides that if a tenant's application to dispute a 10 Day Notice to End Tenancy for Unpaid Rent is dismissed or the landlord's notice is upheld the landlord is entitled to an Order of Possession if the landlord's notice complies with Section 52 of the *Act*. In part relevant to this matter **Section 55** states as follows;

Order of possession for the landlord

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.

I find that as I do not have a copy of the landlord's Notice to End for Unpaid Rent I am unable to determine it's compliance as prescribed by Section 55(1)(a) of the *Act*. None the less it must be known that the landlord has *de facto* possession of the rental unit as the tenant has vacated.

Conclusion

The tenant's application is **dismissed** in its entirety, without leave to reapply.

This Decision is final and binding.

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 30, 2019

Residential Tenancy Branch