



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MT, CNC, LRE

### Introduction

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

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 66;
- cancellation of the landlord's 1 Month Notice, pursuant to section 47; and
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he had permission to represent the landlord named in this application, as an agent at this hearing.

The landlord testified that he did not receive a copy of the tenant's application for dispute resolution hearing package. He said that he was notified about the hearing from the RTB.

### Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the Residential Tenancy Branch ("RTB") *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 appearance by the tenant, I order the tenant's entire application dismissed without leave to reapply.

### Analysis

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 1 Month Notice, the landlord is entitled to an order of possession, provided that the notice meets the requirements of section 52 of the *Act*.

Neither party provided a copy of the 1 Month Notice so I could not determine whether it complied with section 52 of the *Act*. The landlord said that he had a copy but did not provide it for this hearing. He said that he had an upcoming RTB hearing for an order of possession and he provided the notice for that hearing. Accordingly, I notified the landlord that I could not issue an order of possession to him.

### Conclusion

The tenant's entire application is dismissed without leave to reapply. The landlord is not entitled to an order of possession.

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: September 23, 2019

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Residential Tenancy Branch