



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed testimony. The tenants did not attend. The landlord indicated that there was a possibility that the tenants had vacated the rental unit but was at this time unable to confirm it.

This matter was set for a conference call hearing at 11:00 a.m. on this date. The landlord confirmed that he was served with the tenants' application for dispute and that he was aware of the listed issue(s) and was prepared to proceed.

I waited until 12 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who had called into this teleconference.

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 tenants and in the absence of the tenants' 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 also indicated that he seeks an order of possession. A review of the tenants' application for dispute, the tenants' submitted documentary evidence and the landlord's submitted documentary evidence reveals that neither party provided a copy of the 1 month notice to end tenancy from which the landlord bases his request upon.

Section 47 says a landlord may end a tenancy by giving notice to end the tenancy for a number of reasons. In the case before me neither party has supplied a copy of the One Month Notice to End Tenancy for Cause. I explaining the crucial and vital nature of this document to the landlord. The Notice is not a trivial piece of information. It is the foundation that a landlord relies on to assist in their application to end a tenancy when there is cause. Neither party provided a copy of the Notice that was issued. The tenant is entitled to have full answer and defence of any allegation made against them as is required under the Natural Laws of Justice. The landlord is free to file his own application for dispute based upon the unsubmitted document as I cannot render a decision on its validity without the document presented.

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: October 04, 2019

Residential Tenancy Branch