



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for An order to cancel a One Month Notice to End Tenancy for Cause ("Notice") pursuant to section 47.

The landlord attended the hearing, accompanied by an advocate, JP ("landlord"). The tenant did not attend the hearing although I left the teleconference connection open until 11:10 a.m. to enable the tenant to call into this hearing scheduled for 11:00 a.m. 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 ones who had called into this teleconference. The landlord acknowledged being served with the tenant's Application for Dispute Resolution Proceedings Package and contends he has no concerns with timely service of documents.

Issue(s) to be Decided

Should the Notice be upheld or cancelled?

Background and Evidence

The landlord testified that the tenant moved her bus off the property approximately 3 to 4 weeks ago and that the property has been sold. The landlord also testified the tenant was not served with any written, signed Notice to End Tenancy.

Analysis

Rule 7.3 of the Rules of Procedure provides that 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. Rule 7.4 states that 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 to present evidence, any written submissions supplied may or may not be considered.

The tenant did not attend the hearing. As the tenant did not attend, the tenant did not present evidence regarding the merits of the claim for me to consider. Consequently, I dismiss the tenants' application without leave to reapply.

Section 55 states:

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.

As there is no Notice to End Tenancy to uphold, I decline to grant an Order of Possession to the landlord.

Conclusion

The tenant's application is 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: October 28, 2019

Residential Tenancy Branch