



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on September 12, 2019 (the "Application"). The Tenant applied to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 02, 2019 (the "Notice").

The Tenant filed an amendment September 13, 2019 in relation to an issue with the stove.

The Landlord appeared at the hearing. The Tenant did not appear. I waited 10 minutes to allow the Tenant to call into the hearing; however, the Tenant did not do so.

The Landlord advised that the parties came to an agreement about the Notice and he is not seeking an Order of Possession based on the Notice. The Landlord agreed to the Notice being cancelled.

The Landlord confirmed receipt of the hearing package and Tenant's evidence for this matter.

The Landlord confirmed there is a tenancy agreement between the parties in relation to this matter.

Rule 7.3 and 7.4 of the Rules of Procedure state:

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.

Here, the Tenant failed to attend the hearing and provide a basis for, or evidence regarding, the Application. I decline to consider the Tenant's documentary evidence when the Tenant did not appear to present or explain it. In the absence of evidence from the Tenant, the Application is dismissed without leave to re-apply.

Section 55(1) of the *Residential Tenancy Act* (the "*Act*") requires an arbitrator to issue an Order of Possession when a tenant applies to dispute a notice to end tenancy, the application is dismissed and the notice complies with section 52 of the *Act*.

However, here the Landlord is not seeking an Order of Possession for the rental unit as the parties have come to an agreement about the Notice. Further, the Landlord is agreeing to the Notice being cancelled. Therefore, I cancel the Notice and have not considered whether an Order of Possession should be issued pursuant to section 55 of the *Act*.

Conclusion

The Application is dismissed without leave to re-apply.

The Notice is cancelled by agreement of the Landlord.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 15, 2019

Residential Tenancy Branch