



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes      ERP and OPR

#### Introduction

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (the “Act”). The landlord’s for:

- an Order of Possession pursuant to section 55.

And the tenant’s for:

- an order to the landlord to make repairs to the rental unit pursuant to section 33.

The tenant’s application had previously come to a hearing on October 25, 2019, where, in an interim decision, I order it be adjourned (due to the tenant failed to serve her evidence on the landlord) and granted leave to the landlord to make his application to be heard at the same time as the tenant’s reconvened application.

Both parties attended the hearing on October 25, 2019.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:10 am in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 am. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 testified that the tenant moved out of the rental unit following the October 25, 2019 hearing. As such, he stated that he no longer required an order of possession.

Rule of Procedure 6.6 states:

**6.6 The standard of proof and onus of proof**

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application.

As such, the tenant must prove that repairs to the rental unit are necessary.

Rule of Procedure 7.4 states:

**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.

As she did not attend this hearing to present evidence (and as she presented no evidence at the October 25, 2019 hearing), pursuant to Rule 7.4, I decline to consider any documentary evidence submitted by the tenant.

I find that, by failing to attend this hearing, and failing to present any evidence, the tenant has failed to discharge her evidentiary burden to prove that repairs to the rental unit are necessary.

In any event, I accept the landlord's uncontroverted evidence that the tenant has vacated the rental unit. As such, the tenant is no longer entitled to an order that repairs be made to the rental unit. I dismiss both parties' claims, 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: December 16, 2019