



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, LRE, OLC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on December 06, 2019 (the "Application"). The Tenants applied as follows:

- To dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities;
- To suspend or set conditions on the Landlord's right to enter the rental unit; and
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement.

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

The Agent confirmed the Landlord was issued an Order of Possession on another file December 09, 2019 and advised that the Tenants vacated the rental unit January 03, 2020. The Agent confirmed the Landlord is not seeking an Order of Possession at this hearing.

Rule 7.3 of the Rules of Procedure states:

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.

Here, the Tenants failed to attend the hearing and provide a basis for, or evidence regarding, the Application. Given this, the Application is dismissed without leave to re-apply.

Section 55(1) of the *Residential Tenancy Act* (the “*Act*”) requires an arbitrator to issue the landlord 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 an Order of Possession has already been issued and the Tenants have vacated the rental unit. Therefore, I 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.

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: February 03, 2020

Residential Tenancy Branch