



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AWM ALLIANCE REAL ESTATE GROUP LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on February 06, 2020 (the "Application"). The Tenants applied to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and for an order that the Landlords comply with the Act, regulation and/or the tenancy agreement.

The Agent appeared at the hearing for the Landlords. The Tenants did not appear at the hearing which lasted 15 minutes. The Agent provided the correct names of the Landlords which are reflected in the style of cause.

The Agent advised that the Tenants had vacated the rental unit the weekend before the hearing, had handed over keys and given over possession of the rental unit. Given this, the Agent did not seek an Order of Possession based on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Agent did want a Monetary Order for unpaid rent; however, I explained to the Agent that the Landlords must file a separate Application for Dispute Resolution for this as I cannot consider it on the Tenants' Application.

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. In the absence of evidence from the Tenants, 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 Landlords are not seeking an Order of Possession for the rental unit as the Tenants have vacated and given over possession of the rental unit. Therefore, I did not consider whether an Order of Possession should be issued pursuant to section 55(1) of the *Act*.

Conclusion

The Application is dismissed without leave to re-apply.

I have not considered whether the Landlords are entitled to an Order of Possession under section 55(1) of the *Act* as the Landlords are not seeking an Order of Possession given the Tenants have vacated and given over possession of the rental unit.

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: April 16, 2020

Residential Tenancy Branch