



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, MNDCT, RP, LRE, RR, PSF
FFL, OPRM-DR

Introduction

This hearing convened as a result of cross applications. In the Tenant's Application, filed on March 6, 2020, he sought the following relief:

- an Order canceling a 1 Month Notice to End Tenancy for Cause;
- an Order restricting the Landlords' right to enter the rental unit;
- an Order that the Landlords:
 - provide services or facilities as required by law;
 - comply with the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, or the residential tenancy agreement; and,
 - make repairs to the rental unit; and,
- Monetary compensation from the Landlords, including an Order permitting the Tenant to deduct the cost of repairs, services or facilities from the rent.

In the Landlords Application, filed on March 11, 2020, they sought an Order of Possession and monetary compensation based on a 10 Day Notice to End Tenancy for Unpaid Rent as well as recovery of the filing fee.

The hearing of the parties' cross applications was scheduled for 9:30 a.m. on May 11, 2020. The line remained open while the phone system was monitored for ten minutes and only the Landlords and I called into the hearing during this time.

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 Landlords and I were the only ones who had called into this teleconference.

The Landlord, L.L., testified that the Tenant vacated the rental unit on March 15, 2020. She also stated that the Tenant failed to provide a forwarding address.

L.L. also confirmed that they did not serve the Tenant with their Application for Dispute Resolution, Notice of Hearing or supporting evidence.

Analysis and Conclusion

Rule 7 of the *Residential Tenancy Branch Rules of Procedure* provides in part as follow:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

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.

As the Tenant failed to call into the hearing and provide submissions in support of his claim, I dismiss the Tenant's claim, filed March 6, 2020, without leave to reapply.

The Landlords failed to serve the Tenant with their Application; consequently, he was not provided notice that I would also be considering a Landlords' Application during the hearing today. A party making a claim before the Residential Tenancy Branch must serve the other party with notice of the hearing as required by the *Residential Tenancy Act* and the *Residential Tenancy Branch Rules of Procedure*. Further, one of the principles of natural justice is that a party to a dispute has the right to be informed of any claim made against them, the opportunity to review and respond to any evidence submitted by the claiming party, as well as the right to be present during any hearing of the claim. To proceed with the Landlords' claim without proper notice to the Tenant would offend this principle, as well be contrary to the *Act* and the *Rules*.

I therefore dismiss the Landlords' monetary claim with leave to reapply. As the Tenant has vacated the rental unit, an Order of Possession is no longer required; therefore, I dismiss the Landlords' request for an Order of Possession 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: May 11, 2020

Residential Tenancy Branch