



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “*Act*”) to cancel a 10-Day Notice to End Tenancy for Unpaid Rent (the “*Notice*”) pursuant to section 46 of the *Act*. The matter was set for a conference call.

The Landlord attended the conference call hearing; however, the Tenant did not. As the Tenant was the applicants in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was affirmed to be truthful in their testimony and was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision

Issues to be Decided

- Should the Notice to End Tenancy be cancelled?
- If not, is the Landlord entitled to an order of Possession?

Background and Evidence

This hearing was scheduled for a teleconference hearing on this date.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

This hearing was scheduled to commence at 11:00 a.m. on November 6, 2020. I called into the teleconference at 11:00 a.m. and monitored the teleconference until 11:11 a.m. Neither the Applicant nor the Respondent called into the teleconference 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 I was the only person who had called into this teleconference.

During these proceedings, the Landlord was asked to testify to the details of the Notice they issued, including the date served, amounts due, and payments received since the Notice was issued. Throughout these proceedings, the Landlord was unable to speak to the details of their Notice and this tenancy.

Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. Rule 7.3 of the Rules of Procedure stipulates that an Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Rules 7.1, 7.3 and 7.4 of the Rules of Procedure provide as follows:

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.

This hearing was scheduled to commence at 11:00 a.m. on November 6, 2020. I called into the teleconference at 11:00 a.m.; the line remained open while the phone system was monitored for ten minutes, and the only participant who called into the hearing during this time was the Landlord. Therefore, as the Tenant did not attend the hearing by 9:41 a.m., and the Landlord appeared and was ready to proceed, I dismiss the Tenant's application without leave to reapply.

As the Landlord was unable to testify to the details of the Notice, amounts due and payments received since the Notice was issued, I decline to issue an order of possession during these proceedings. The Landlord is granted leave to apply for a separate hearing regarding the Notice.

Conclusion

The Tenant's application is dismissed 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: November 6, 2020

Residential Tenancy Branch