



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on October 13, 2020 (the "Application"). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the "Act"). The Landlord also sought reimbursement for the filing fee.

The Tenant and her brother appeared at the hearing and appeared for Tenant S.T. Nobody appeared at the hearing for the Landlord. I waited 10 minutes to allow the Landlord to call into this hearing set for 9:30 a.m. Nobody called into the hearing for the Landlord during this time. I confirmed from the teleconference system twice that the Tenant and I were the only people who had called into this hearing. I asked if anybody was on the line for the Landlord and received no reply.

Rules 6.6, 7.3 and 7.4 of the Rules of Procedure state:

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. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

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.

The Landlord had the onus to prove they were entitled to an Order of Possession pursuant to section 56 of the *Act* as well as reimbursement for the filing fee. Nobody attended the hearing for the Landlord to present evidence or prove the claim. The Tenant did appear to address the issues raised in the Application. Given this, the Application is dismissed without leave to re-apply.

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: December 08, 2020

Residential Tenancy Branch