



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Misty Super Eight Motel
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC OLC FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

While the landlord's agent, MS, attended the hearing by way of conference call, the tenant did not. At the outset of the hearing, I informed the landlord that I would wait until 11:11 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 am. During the 11:00 a.m. hearing I confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing.

Rule 7.3 of the Rules of Procedure provides as follows:

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.

In the absence of any evidence or submissions from the applicant, I order the tenant's entire application dismissed without liberty to reapply.

Section 55(1) of the *Act* reads as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The landlord confirmed that the tenant was not served with a Notice to End Tenancy in an approved form as required by section 52 of the *Act*. Accordingly, the landlord will not be granted an order of possession.

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: February 12, 2021

Residential Tenancy Branch