



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: Tenant: CNC
Landlords: OPC, FFL

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for cause pursuant to section 55;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenant requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

While the landlord’s agents CA and MB attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord’s agents and I were the only ones who had called into this teleconference.

The landlord’s agent, CA, testified that neither of the party had served each other with their respective applications, and that the landlord was awaiting a decision pursuant to a direct request application.

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

Accordingly, **in the absence of any submissions in this hearing from the tenant, I order the tenant's application dismissed without leave 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.

As neither party submitted a copy of the 1 Month Notice, I am unable to confirm whether the Notice complies with section 52 of the *Act*. Accordingly, I am unable to provide the landlord with an Order of Possession.

As the landlord had not served the tenant with this application for dispute resolution, and as the landlord still wished to pursue an application for an Order of Possession, I dismiss the landlord's application with 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 31, 2021

Residential Tenancy Branch