



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

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

- an order of possession for cause pursuant to section 55.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence.

The landlord was advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

This matter was set for a conference call hearing at 1:30 p.m. on this date. I waited until 15 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing. 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 landlord and I were the only persons who had called into this teleconference.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

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

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

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 hearing commenced in the absence of the tenant.

The landlord stated that the tenant was served with the notice of hearing package in person on May 21, 2021. The landlord stated that two documentary evidence files were to the tenant in person shortly thereafter. The landlord also stated a third subsequent documentary evidence file was served to the tenant in person on September 7, 2021. I accept the undisputed affirmed evidence of the landlord and find that the tenant despite not attending was sufficiently served as per section 71 of the Act.

During the hearing the landlord was asked if a copy of the 1 month notice was submitted. The landlord repeatedly stated that a copy was provided but was unable to name the relevant file. A review of all of the landlord's submitted documentary evidence was made unfortunately no copy of the 1 month notice was found in the submitted documentary evidence. The landlord was asked if he had a copy of the notice before him. The landlord answered that he did not. The landlord was informed that a copy of a Proof of Service Notice to End Tenancy and Written Demand to Pay Utilities #RTB-34 dated April 30, 2021 which states that the 1 month notice was served to the tenant in person on April 30, 2021 and signed for by the tenant.

Despite repeated attempts the landlord was not able to locate a copy of the 1 month notice nor was he able to provide any details of the notice.

Section 47 says a landlord may end a tenancy by giving notice to end the tenancy for a number of reasons. In the case before me the landlord has not supplied a copy of the One Month Notice to End Tenancy for Cause. I spent a large portion of the hearing explaining the crucial and vital nature of this document to both parties. The Notice is not a trivial piece of information. It is the foundation that a landlord relies on to assist in their application to end a tenancy when there is cause. The landlord did not have a copy of the 1 month notice before him nor was he able to provide any of the details of the

notice. The tenant is entitled to have full answer and defence of any allegation made against them as is required under the Natural Laws of Justice.

I find that in the absence of the 1 month notice the landlord's application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period. The merits of the notice were not discussed.

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: September 20, 2021

Residential Tenancy Branch