



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      OPC OL

### **Introduction**

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; and
- an order of possession based on a mutual agreement to end tenancy pursuant to section 55.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:40 am in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 am. Tenant RL attended the hearing and was 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. I also confirmed from the teleconference system that the RL and I were the only ones who had called into this teleconference.

RL stated that the parties attended a hearing on June 5, 2021, whereat they entered into a settlement agreement requiring the tenants to vacate the rental unit. The tenants vacated the rental unit on July 1, 2021. The landlord would appear to no longer require the relief sought, which may explain her failure to attend the hearing.

### **Preliminary Issue – Identity of Parties**

Although this is the landlord's application, she listed herself as a tenant respondent on the application. At the hearing, RL confirmed that the landlord, and not the tenants, made this application.

As such, I order that the application be amended to reverse the roles of the parties and list the landlord as the landlord applicant (as opposed to the tenant respondent) and the tenants as the tenant respondents (as opposed to the landlord applicants).

### **Preliminary Issue - Effect of Landlord's Non-Attendance**

Rule of Procedure 6.6 states:

#### **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.

As this is the landlord's application, she bears the onus to prove her claim. As she failed to attend the hearing, I find that she has failed to discharge her evidentiary burden to prove that she is entitled to the order sought. Pursuant to Rule of Procedure 7.4, she (or her agent) must attend the hearing and present her evidence for it to be considered. As this did not occur, I have not considered any of the documentary evidence submitted by the landlord to the Residential Tenancy Branch in advance of the hearing.

I dismiss her claim, 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: September 28, 2021

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Residential Tenancy Branch