



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ET**

Introduction

The hearing was convened as a result of the Landlord's application for dispute resolution for an early termination of the tenancy and an Order of Possession pursuant to section 56 of the *Residential Tenancy Act*.

The Tenant appeared at the hearing. However, no one attended at the hearing for the Landlord. The hearing commenced at 9:30 am and I left the teleconference hearing connection open until 9:41. The teleconference system indicated that only the Tenant and I had called into the hearing. I also confirmed midway through and at the end of the hearing that a representative of the Landlord was not in attendance. I confirmed the correct call-in numbers and participant codes were provided in the Notice of Dispute Proceeding Hearing generated when the Landlord applied.

Rule 6.6 of the *Residential Tenancy Branch Rules of Procedure* ("RoP") state:

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 claims.

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.

[Italics added]

In this application, the onus to prove their case is on the Landlord. As the Landlord has not attended this hearing, the Landlord has failed to prove their case.

RoP Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* states:

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.

As the Landlord is not in attendance to prove their case, I dismiss the Landlord's application 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 *Residential Tenancy Act*.

Dated: October 19, 2021

Residential Tenancy Branch