



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ZN PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, CNR

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on October 13, 2021 (the "Application"). The Tenant applied as follows:

- To dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice")
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement

The Tenant appeared at the hearing with the Co-tenant. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenant and Co-tenant who did not have questions when asked. I told the Tenant and Co-tenant they were not allowed to record the hearing pursuant to the Rules of Procedure (the "Rules"). The Tenant and Co-tenant provided affirmed testimony.

Neither party had submitted evidence prior to the hearing. I addressed service of the hearing package. The Tenant and Co-tenant testified that they tried to serve the hearing package on an agent for the Landlord in person but the agent would not accept the package and so the Tenant kept the package. The Tenant testified that the hearing package was not served in any other way.

Pursuant to section 59(3) of the *Residential Tenancy Act* (the "Act") and rule 3.1 of the Rules, the Tenant was required to serve the hearing package on the Landlord. If an agent for the Landlord would not accept the package, the Tenant could have left the package on the ground in front of the agent or served the package in another manner permitted by section 89(1) of the *Act*. The Tenant did neither and therefore failed to

serve the Landlord with the hearing package as required. In the circumstances, the Application is dismissed with leave to re-apply. However, this decision does not extend any time limits set out in the *Act*.

I acknowledge that section 55(1) of the *Act* requires an arbitrator to issue an Order of Possession when a tenant applies to dispute a notice to end tenancy, the application is dismissed or the notice is upheld and the notice complies with section 52 of the *Act*. However, I decline to issue the Landlord an Order of Possession for two reasons. First, nobody appeared at the hearing for the Landlord to confirm they are seeking an Order of Possession. Second, a copy of the Notice was not submitted and therefore I cannot confirm whether the Notice complies with section 52 of the *Act*.

Conclusion

The Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 15, 2021

Residential Tenancy Branch