



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, OLC**

Introduction

The hearing was convened as a result of the Tenants' application under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a One Month Notice to End Tenancy for Cause dated October 27, 2021 ("1 Month Notice") pursuant to section 47; and
- an order that the Landlord comply with the Act, *Residential Tenancy Regulations* ("Regulations") and/or tenancy agreement pursuant to section 62.

The Tenants did not attend this hearing scheduled for 9:30 am. I left the teleconference hearing connection open for the entire hearing, which ended at 9:44 am, in order to enable the Tenants to call into this teleconference hearing. The Landlord's agent ("KK") 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 Dispute Resolution Proceeding. I also confirmed from the teleconference system that KK and I were the only ones who had called into this teleconference.

KK acknowledged the Tenants served the Landlord with the Notice of Dispute Resolution Proceeding ("NODP") in person on October 28, 2021. As KK acknowledged receipt of the NODP on the Landlord, I find that the Landlord was served the NODP in accordance with the provisions of section 89 of the Act.

Preliminary Matter – Landlord’s Entitlement to Seek Order of Possession

Section 55(1) of the Act states:

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.

KK testified the Tenants vacated the rental unit on or about December 3, 2021 and the Landlord took possession of the rental unit on December 4, 2021. Accordingly, KK stated that the Landlord is not seeking an Order of Possession pursuant to section 55(1) of the Act. It is therefore unnecessary for me to consider whether the Landlord is entitled to an Order of Possession under section 55(1) of the Act.

Conclusion

The Tenants’ application is dismissed 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: December 8, 2021

Residential Tenancy Branch