



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, OLC**

Introduction

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

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

The Tenant did not attend this hearing scheduled for 11:00 am. I left the teleconference hearing connection open for the entire hearing, which ended at 11:14 am, in order to enable the Tenant to call into this teleconference hearing. The Landlord 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 the Landlord and I were the only ones who had called into this teleconference.

The Landlord acknowledged the Tenant served him with the Notice of Dispute Resolution Proceeding ("NODP"). As the Landlord acknowledged receipt of the NODP, I find that the Landlord was served the NODP in accordance with the provisions of section 89 of the Act.

Preliminary Matter – Effect of Non-Attendance by Tenant

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* state:

7.1 Commencement of the dispute resolution hearing

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

7.3 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 the party, or dismiss the application, with or without leave to re-apply.

Given the Tenant did not attend the hearing within 10 minutes of its commencement, the Tenant's application is dismissed without leave to reapply. This decision does not extend any applicable time limits under 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.

The Landlord testified the Tenant vacated the rental unit on August 31, 2021 and he has taken possession of the rental unit. Accordingly, he was not seeking an Order of Possession. 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 Tenant's application is dismissed without leave to reapply.

The Tenant's claim for reimbursement of the filing fee for the 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