



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNN, FFT**

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 November 2, 2021 ("1 Month Notice") pursuant to section 47; and
- authorization to recover the filing fee for this application from the respondent pursuant to section 72(1).

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 9:41 am, in order to enable the Tenants 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 Tenants served her with the Notice of Dispute Resolution Proceeding ("NDRP") in person on or about November 5, 2021. As the Landlord acknowledged receipt of the NDRP, I find that the Landlord was served the NDRP in accordance with the provisions of section 89 of the Act.

The Landlord testified that she served the Tenants with her evidence by Expedited Mail on November 26, 2021. I find the Landlord served her evidence on the Tenants pursuant to section 88 of the Act.

Preliminary Matter – Effect of Non-Attendance by Tenants

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

The Tenants' claim for the filing fee for their application is dismissed without leave as they failed to attend the hearing to present the merits of their application.

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 Tenants vacated the rental unit on December 1, 2021 and she has taken possession of the rental unit. Accordingly, she was not seeking an Order of Possession pursuant to section 55(1) of the Act. The Landlord also stated that an Order of Possession dated December 20, 2021 was granted to her after a hearing

before an adjudicator on an application for dispute resolution by direct request made by the Landlord and an Order of Possession dated November 25, 2021 was granted to her by an arbitrator on an application for dispute resolution for an early termination following a hearing held on November 25, 2021.

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.

The Tenants' 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: January 6, 2022

Residential Tenancy Branch