



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR-MT, CNC-MT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- more time to make an application to cancel the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 15, 2021 ("10 Day Notice"), pursuant to section 66;
- cancellation of the landlord's 10 Day Notice, pursuant to section 46;
- more time to make an application to cancel the landlord's One Month Notice to End Tenancy for Cause, dated September 9, 2021 ("1 Month Notice"), pursuant to section 66; and
- cancellation of the landlord's 1 Month Notice, pursuant to section 47.

The applicant tenant did not attend this hearing, which lasted approximately 11 minutes. The respondent landlord's agent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 9:30 a.m. and ended at 9:41 a.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's agent and I were the only people who called into this teleconference.

The landlord confirmed her name, spelling, and the rental unit address. She stated that she had permission to represent the landlord named in this application. She provided an email address for me to send a copy of this decision to the landlord after the hearing.

I informed the landlord's agent that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure*. The landlord's agent affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord's agent. I informed her that I could not provide legal advice to her. She had an opportunity to ask questions, which I answered. She did not make any adjournment or accommodation requests.

The landlord's agent stated that she did not receive a copy of the tenant's application for dispute resolution hearing package from the tenant. She claimed that she was told about the tenant's application by the RTB.

The landlord's agent confirmed that the landlord withdrew two applications on January 31, 2022, the day before this hearing. The landlord applied for orders of possession based on the 10 Day Notice and the 1 Month Notice, a monetary order for unpaid rent, and two application filing fees. The file numbers for those two applications are referenced on the cover page of this decision.

Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the RTB *Rules of Procedure* provides as follows:

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.

In the absence of any appearance by the tenant, I order the tenant's entire application dismissed without leave to reapply.

Analysis

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 10 Day Notice and a 1 Month Notice, the landlord is entitled to an order of possession, provided that the notices meet the requirements of section 52 of the *Act*.

The landlord's agent stated that the landlord did not require an order of possession because the tenant moved out on November 15, 2021. I notified her that I would not issue an order of possession to the landlord, since once was not required. I informed her that the landlord could not reapply for this claim in the future. She confirmed her understanding of and agreement to same.

Pursuant to section 55 of the *Act*, the landlord is entitled to a monetary order for unpaid rent without filing a separate application. As noted above, the landlord filed an application for a monetary order for unpaid rent but withdrew it on the day before this hearing.

The landlord's agent stated that a monetary order for unpaid rent was not required by the landlord. She confirmed that the landlord wanted this matter to end and knew that the tenant would not pay the rent anyway. I notified her that I would not issue a monetary order for unpaid rent and that the landlord could not reapply for this claim in the future. She confirmed her understanding of and agreement to same.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

The landlord is not issued an order of possession or a monetary order for unpaid rent, against the tenant.

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: February 01, 2022

Residential Tenancy Branch