



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC**

Introduction

This hearing was convened as a result of the Tenant's application under the *Residential Tenancy Act* (the "Act") for an order for cancellation of a One Month Notice to End Tenancy for Cause ("1 Month Notice") pursuant to section 47 of the Act.

The Tenant did not attend this hearing. I left the teleconference hearing connection open until 10:26 am in order to enable the Tenant to call into this teleconference hearing scheduled for 9:30 am. 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 ("NDRP"). I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

The Landlord stated the Tenant served her with the NDRP in-person around February 18 or 19, 2022. I find the NDRP was served in accordance with section 89 of the Act. The Landlord stated the Tenant did not serve any evidence on her.

Preliminary Matter – Effect of Non-Attendance by Tenant

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* ("RoP") 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.

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.

I noted that the Tenant did not submit a copy of the 1 Month Notice as required by Rule 2.5 of the RoP. I provided the Landlord with the opportunity of uploading a copy of the 1 Month Notice during the hearing, but she was unable to do so. As I was unable to review the 1 Month Notice to determine if it complied with the form and content requirements of 52 of the Act, I was unable to consider whether the Landlord was entitled to an Order of Possession pursuant to section 55(1) of the Act.

Conclusion

The Tenant's application is dismissed without leave to reapply.

The Landlord is not entitled to an Order of Possession under section 55(1) of 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 *Residential Tenancy Act*.

Dated: March 21, 2022

Residential Tenancy Branch