



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Landlord applied on January 5, 2022 for:

- an order of possession, having issued a One Month Notice to End Tenancy, (the One Month Notice); and
- the filing fee.

The Tenant attended the hearing; the Landlord did not. The Tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Preliminary Matters

Residential Tenancy Branch Rules of Procedure 7.1 and 7.3 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 that party, or dismiss the application, with or without leave to re-apply.

The hearing commenced at the scheduled time, in the absence of the Landlord.

A copy of the One Month Notice was not submitted as evidence. Based on the paper application, the Notice was issued on November 26, 2021, with an effective date of December 28, 2021, and the description of the case states:

IN THAT ROOM THERE IS MAIN POWER BRAKER
SWICH AND MAIN WATERLINE SHUT OFF
VALVE (TAP)

Residential Tenancy Branch Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

As the Landlord did not attend the hearing to prove the grounds on which the Notice was issued, I dismiss the Landlord's application without leave to re-apply, and cancel the One Month Notice. The tenancy will continue until it is ended in accordance with the Act.

Conclusion

The Landlord's application is dismissed. The tenancy will continue until it is ended in accordance with 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: April 11, 2022

Residential Tenancy Branch