



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Disputes Code OPC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an Order of Possession for cause, pursuant to sections 47 and 55 of the *Act*.

This hearing originally convened on May 16, 2022 and was adjourned to September 8, 2022 in an Interim Decision dated May 16, 2022. This decision should be read in conjunction with the May 16, 2022 Interim Decision. The hearing was adjourned to provide the parties with an opportunity to upload a copy of the One Month Notice to End Tenancy for Cause (the "Notice").

The tenant did not attend the September 8, 2022 hearing, although I left the teleconference hearing connection open for 10 minutes to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord's agent (the "agent") 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 Hearing. I also confirmed from the teleconference system that the agent and I were the only ones who had called into this teleconference.

The agent was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The agent testified that she was not recording this dispute resolution hearing.

Per section 95(3) of the *Act*, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

Preliminary Issue- The Notice

The agent testified that she was unable to locate the missing pages of the Notice and was therefore not able to upload them into evidence. The reasons to end tenancy and

the details of cause sections of the Notice are located on page two of the Notice, which was not entered into evidence.

In the hearing I informed the agent that the landlord's application for an Order of Possession based on the Notice dated November 29, 2021 is dismissed, without leave to reapply for failure to prove, on a balance of probabilities, that the Notice complied with section 52 of the *Act*.

I informed the agent that if the landlord wishes to pursue an Order of Possession for cause, the landlord will have to serve the tenant with a new One Month Notice to End Tenancy for Cause.

Conclusion

The landlord's 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: September 8, 2022

Residential Tenancy Branch