



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC

Introduction

This hearing dealt with an application pursuant to the *Residential Tenancy Act* (“the Act”) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

While legal counsel for the respondents, SD, attended the hearing by way of conference call, the applicant did not. During the hearing, I also confirmed from the online teleconference system that legal counsel and I were the only ones who had called into this teleconference.

SD was clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the recording of a dispute resolution hearing by the attending parties. They confirmed that they understood.

While waiting for the applicant to respond, legal counsel for the respondents confirmed that a hearing was previously held on September 1, 2022 in relation to the same parties and rental address, and that the Arbitrator had made a finding that they have no jurisdiction to hear these matters. Legal counsel also confirmed that a Supreme Court petition has been filed, and these matters are substantially linked.

Rule 7.3 of the 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

Section 58 of the Act states the following, in part:

(2) Except as provided in subsection (4), if the director receives an application under subsection (1), the director must determine the dispute unless...

(c) the dispute is linked substantially to a matter that is before the Supreme Court.

(4) The Supreme Court may

(a) on application, hear a dispute referred to in subsection (2) (a) or (c), and

(b) on hearing the dispute, make any order that the director may make under this Act.

As the applicant failed to attend the hearing for their application, and as it has been previously determined by another Arbitrator that the RTB has no jurisdiction to hear these matters between the parties, I decline to make any findings in relation to this application.

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 13, 2022

Residential Tenancy Branch