



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX RENTALS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC, FFT

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on September 26, 2022, wherein the Tenant indicated they sought to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, an Order that the Landlord comply with the *Residential Tenancy Act* (the "Act"), the *Residential Tenancy Regulation*, and or the residential tenancy agreement, as well as recovery of the filing fee.

The hearing of the Tenant's Application was scheduled for 9:30 a.m. on November 10, 2022. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Respondent Landlord. The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:43 a.m. 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 and I were the only ones who had called into this teleconference.

Analysis and Conclusion

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure*. Rules 7.1, 7.3 and 7.4 address the requirement of a party to call into the teleconference hearing and read as follows:

7.1 Commencement of Hearing

The hearing must commence at the scheduled time unless otherwise decided 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.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

As the Tenant did not call into the hearing by 9:43 a.m., and the Landlord appeared and was ready to proceed, **I dismiss the Tenant's claim without leave to reapply.**

Section 55 of the *Residential Tenancy Act* provides as follows:

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.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

I have reviewed the Notice and confirm it complies with section 52 of the *Act*. As I have dismissed the Tenant's Application, I grant the Landlord an Order of Possession effective **two days** after service upon the Tenant. This Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

Although the Tenant indicated they were applying to dispute a notice to end a tenancy for unpaid rent under section 46, the Landlord confirmed no such notice was issued. As such, and while I accept the Landlord's evidence that the Tenant was in arrears of rent in the amount of \$4,049.84, section 55 (1.1) does not permit me to award the Landlord a Monetary Order for unpaid rent when I dismiss a Tenant's Application to cancel a 1 Month Notice to End Tenancy for Cause issued pursuant to section 47. The Landlord is

at liberty to apply for such compensation as well as compensation for any losses incurred in this tenancy.

This Decision is final and binding on the parties, except as otherwise provided under the Act, and 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: November 17, 2022

Residential Tenancy Branch