



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC, PSF, FFT

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on October 4, 2022, wherein the Tenant sought the following relief:

- an Order canceling a 10 Day Notice to End Tenancy for Unpaid Rent;
- an Order canceling a 1 Month Notice to End Tenancy for Cause;
- an Order that the Landlord provide services or facilities; and,
- recovery of the filing fee.

This matter was set for hearing by telephone conference call at 1:30 p.m. on this date. The line remained open until 1:44 p.m. and the only participants who called into the hearing during this time were the Landlord and his friend, A.L. 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 A.L. 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 Applicant, the Tenant bears the burden of proving their claim on a balance of probabilities. In the absence of any evidence or submissions from the Tenant and in the absence of the Tenant's participation in this hearing, **I dismiss the Tenant's claim without leave to reapply.** I make no findings on the merits of this matter.

Pursuant to section 55 of the *Act*, when a tenant's application for an order canceling a notice is granted, I am to provide the landlord with an Order of Possession (and a Monetary Order in the event the notice is for unpaid rent). However, pursuant to section 55(1)(a) I must review the applicable notice to end tenancy for form and content and to ensure it complies with section 52 of the *Act*.

In this case, neither party submitted a copy of the 10 Day Notice or the 1 Month Notice. Accordingly, I am unable to confirm either notice complies with section 52, and as such I decline to grant the related orders.

The Landlord's friend, A.L. confirmed the Tenant vacated the rental unit as of November 4, 2022 such that an Order of Possession was not required. However, A.L. also stated the Tenant owed rent for at least two months. As discussed during the hearing, the Landlord is at liberty to apply for monetary compensation from the Tenant for unpaid rent and other losses.

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: December 09, 2022

Residential Tenancy Branch