



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding W & S BERNARD INVESTEMENT LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, RP, LRE, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 32;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 16 minutes. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 11:00 a.m. and ended at 11:16 a.m. I monitored the teleconference line throughout this hearing. 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's agent and I were the only people who called into this teleconference.

The landlord's agent confirmed her name and spelling. She provided an email address for me to send this decision to the landlord after the hearing. She said that she is employed as a manager by the landlord's company ("landlord") named in this application. She stated that she had permission to represent the landlord at this hearing. She claimed that she did not require an English language translator at this hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure (“Rules”)* does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, the landlord’s agent affirmed, under oath, that she would not record this hearing.

The landlord’s agent did not make any adjournment or accommodation requests at this hearing. She stated that she was ready to proceed with this hearing.

Preliminary Issue – Inappropriate Behaviour by the Landlord’s Agent during this Hearing

Rule 6.10 of the RTB *Rules* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator’s direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

From the outset of this hearing, the landlord’s agent repeatedly interrupted me, spoke at the same time as me, and argued with me. She became upset when I provided my decision to her verbally at this hearing. She repeatedly argued with me because she did not agree with my decision.

The landlord’s agent was upset when I asked for her mail or email address, so that I could send this decision to the landlord after the hearing. I informed her that if she did not provide any contact information, the landlord may not receive this decision after the hearing.

I repeatedly cautioned the landlord’s agent, but she continued with her inappropriate behaviour. This hearing lasted longer because of her repeated interruptions, arguments, and inappropriate behaviour. At 11:16 a.m., I informed her that I was ending the hearing, as she continued to argue with me, interrupt me, and speak at the same time as me.

Preliminary Issue – Dismissal of Tenant's Application

The landlord's agent confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application.

The tenant did not provide any documentary evidence, including a copy of the 1 Month Notice, for this hearing.

Rule 7.3 of the RTB *Rules* 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.

In the absence of any appearance by the applicant tenant, I order the tenant's entire application dismissed without leave to reapply. I informed the landlord of my decision verbally during this hearing.

Preliminary Issue – Order of Possession

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 1 Month Notice, the landlord may be entitled to an order of possession, if the notice meets the requirements of section 52 of the *Act*.

The landlord's agent requested an order of possession against the tenant. She said the tenant was still residing at the rental unit. I asked the landlord's agent whether the landlord provided a copy of the 1 Month Notice, as evidence for this hearing. I provided her with ample and additional time during this hearing to search through her documents to find a copy of the 1 Month Notice.

The landlord's agent stated that the landlord provided a copy of the proof of service of the 1 Month Notice, which I confirmed that I received. She claimed that the landlord provided a copy of the 1 Month Notice on page 8 of the landlord's 44-page evidence package. I informed her that page 8 of the landlord's evidence showed letters posted to a door, which were blurry and not properly visible, but none appeared to be a copy of a 1 Month Notice on an approved RTB form. I notified her that I searched through the landlord's 5 evidence packages provided for this hearing, and the landlord did not

provide a copy of the 1 Month Notice. I informed her that the landlord only provided copies of Ten Day Notices to End Tenancy for Unpaid Rent or Utilities ("10 Day Notices"), which are not the subject of this proceeding.

Neither party provided a copy of the 1 Month Notice for this hearing, so I could not determine whether it complies with section 52 of the *Act*. For the above reasons, I notified the landlord's agent that I could not issue an order of possession to the landlord.

The landlord's agent became upset and asked why the tenant did not provide a copy of the 1 Month Notice and how she could file this application. The tenant did not attend this hearing, so she could not answer the question. I notified the landlord's agent that I was required to conduct this hearing and make a decision, since the tenant filed this application, and it was scheduled for this hearing.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

The landlord is not issued an order of possession against the tenant.

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: December 05, 2022

Residential Tenancy Branch