



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants filed under the *Residential Tenancy Act* (the “*Act*”), to cancel a One-Month Notice to End Tenancy for Cause, (the “Notice”) issued on August 26, 2022, to request an order for the Landlord to comply with the *Act*, and to recover the filing fee for this application. The matter was set for a conference call.

The Landlord attended the hearing and was affirmed to be truthful in their testimony; however, the Tenants did not. As the Tenants are the applicants to these proceedings, I find that the Tenants have been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter is described in this Decision.

Issues to be Decided

- Should the Notice issued on August 26, 2022, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Are the Tenants entitled to an order for the Landlord to comply with the *Act*?
- Are the Tenants entitled to the return of their filing fee?

Background and Evidence

The Landlord testified that the Tenants moved out of the rental unit as of 12 December 2022, and that they have taken back possession of the rental unit.

Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

I accept the testimony of the Landlord that Tenants moved out of the rental unit as of 12 December 2022, and that the Landlord currently has possession of the rental property.

The Tenants' application to dispute the Notice was set for hearing by a telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored, and the only participant who called into the hearing was the Landlord.

Rules 7.1, 7.3 and 7.4 of the Rules of Procedure provide as follows:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set 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.

Therefore, as the Tenants did not attend the hearing, I dismiss the Tenant's application without leave to reapply.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that this tenancy has already ended in accordance with the Act and that there is no requirement for an Order of Possession.

Conclusion

The Tenants' 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: January 16, 2023

Residential Tenancy Branch