



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding MONTEGO APARTMENTS
LTD. and [tenant name suppressed to prote privacy]

DECISION

Dispute Codes CNC-MT, CNE, MNDCT, RR, LRE (Tenant's Application)
ET, FFL, OPC, FFL (Landlord's Applications)

Introduction

This hearing convened as a result of cross applications. In the Tenant's Application, filed on November 8, 2022, the Tenant sought the following relief:

- an Order canceling a 1 Month Notice to End Tenancy for Cause (the "Notice");
- more time to make such an application;
- an Order for monetary compensation from the Landlord including a rent reduction; and,
- an order restricting the Landlord's right to enter the rental unit.

In the Landlord's Application for Dispute Resolution, filed December 2022, the Landlord sought an Order of Possession based on the Notice and recovery of the filing fee. The Landlord also filed a further application on December 8, 2022 wherein the Landlord sought an early end to tenancy and recovery of the filing fee.

The hearing of the parties' cross applications was scheduled for teleconference at 9:30 a.m. on March 30, 2023. Only the Landlord's representative, B.P. called into the hearing. The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 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 and the Landlord appeared and was ready to proceed, I dismiss the Tenant's claim without leave to reapply.

In the normal course, when a tenant's Application to cancel a notice is dismissed, the landlord would be entitled to an Order of Possession pursuant to section 55 of the *Act*. However, in this case the Tenant vacated the rental unit and the Landlord has regained possession such that an Order of Possession is not required. For the same reasons I also dismiss the Landlord's request for an early end to tenancy, an Order of Possession and recovery of the filing fee.

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: March 31, 2023

Residential Tenancy Branch