



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNC**

Introduction

This hearing was convened as a result of the Tenant's application for dispute resolution ("Application") under the *Residential Tenancy Act* ("Act") in which the Tenant seeks an order for cancellation of a One Month Notice to End Tenancy for Cause ("1 Month Notice") pursuant to section 47 of the Act.

The Landlord's agent ("AA") appeared at the participatory hearing. The Tenant did not attend the hearing even though I left the teleconference hearing connection for the entire duration of the hearing scheduled for 11:00 am. I confirmed the correct call-in numbers and participant codes were provided in the Notice of Dispute Proceeding Hearing ("NDRP") generated when the Landlord applied. I also confirmed throughout the duration of the hearing that the Tenant was not in attendance and that AA and I were the only ones on the conference call. AA was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

AA stated the Tenant did not serve the Landlord with the NDRP or any evidence. AA stated he learned about the hearing when he called the Residential Tenancy Branch ("RTB") on another matter and asked whether the Tenant had made an application for dispute resolution to dispute the 1 Month Notice. AA also stated the Landlord received to emails from the RTB advising that the deadline for submitting evidence was approaching and for the date and time of this hearing.

AA stated the Tenant vacated the rental unit on December 16, 2022.

Preliminary Matter – Effect of Non-Attendance by Tenant

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* (“RoP”) state:

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 the party, or dismiss the application, with or without leave to re-apply.

Rule 7.4 of the RoP states:

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 participate in the hearing, her evidence was not presented as required by Rule 7.4 of the RoP. As such, I will not consider any evidence submitted by the Tenant in advance of the hearing when adjudicating the Application.

Rule 6.6 of the RoP states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

The hearing ended at 11:11 am. Given the Tenant did not attend the hearing within 10 minutes of its commencement, the Application is dismissed without leave to reapply pursuant to Rules 7.3.

As the Tenant has vacated the rental unit, it is unnecessary for me to consider whether the Landlord is entitled to an Order of Possession pursuant to section 55.1 of the Act.

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 14, 2023

Residential Tenancy Branch