



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNR RPP**

Introduction

This hearing was convened as a result of the Tenants' application for dispute resolution ("Application") under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a Ten Day Notice to End Tenancy for Unpaid Rent and/or Utilities dated December 6, 2022 ("10 Day Notice"), pursuant to section 46; and
- an order requiring the Landlords to return the Tenants' personal property pursuant to section 65.

The Tenants did not attend this hearing scheduled for 11:00 am. I left the teleconference hearing connection open for the entire hearing, which ended at 11:13 am, in order to enable the Tenants to call into this teleconference hearing. One of the two Landlords ("JB") attended the hearing and she was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Dispute Resolution Proceeding ("NDRP"). I also confirmed from the teleconference system that JB and I were the only ones who had called into this teleconference.

JB stated the Tenants did not serve the NDRP on the Landlords. JB stated she received an email from the Residential Tenancy Branch ("RTB") that stated the deadline for serving and submitting evidence was approaching. JB stated she called the RTB and she was provided with a courtesy copy of the NDRP.

JB stated the Landlords did not serve any evidence on the Tenants because the Landlords did not have adequate time after receiving the NDRP from the RTB.

Preliminary Matter – Effect of Non-Attended by Tenants at Hearing

Rules 7.1, 7.3 and 7.4 of the *Residential Tenancy Branch Rules of Procedure* 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.

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.

Given the Tenants did not attend the hearing before the hearing ended at 11:11 am, being more than 10 minutes after of its commencement, the Application is dismissed without leave to reapply. As the Tenants were not present at the hearing, I will not consider any of the evidence submitted by the Tenants in advance of the hearing when adjudicating the Application.

Preliminary Matter – No Orders Required by Landlords

JB stated the Landlords made a previous application for dispute resolution ("Previous Application") in which they sought an early end to the tenancy pursuant to section 56 of the Act. JB stated the arbitrator who heard the Previous Application granted the Landlords an Order of Possession. JB stated the Tenants vacated the rental unit on February 21, 2022. JB stated the Tenants paid the rent owing pursuant to the 10 Day Notice and that there were no rental arrears at the time the Tenants vacated the rental unit. Based on the foregoing, the Landlords do not require an Order of Possession or a monetary order for unpaid rent. As such, I decline to issue any orders pursuant to sections 55(1) and 55(1.1) of the Act.

Conclusion

The 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: April 21, 2023

Residential Tenancy Branch