



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL, FFT

Introduction

On December 21, 2022, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) to cancel a Two Month Notice to End Tenancy for the Landlord’s Use of the Property (the “Notice”) issued December 9, 2022, and to recover the filing fee for their application. The matter was set for a conference call.

The Landlord attended the conference call hearing; however, the Tenant did not. As the Tenant was the applicants in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was affirmed to be truthful in their testimony and 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 are described in this Decision

Issues to be Decided

- Should the Notice issued December 9, 2022, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Tenant entitled to the return of their filing fee?

Background and Evidence

The Landlord testified that the Tenant has vacated the rental unit and that as of January 15, 2023, they had 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:

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. Rule 7.3 of the Rules of Procedure stipulates that an Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

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.

This hearing was scheduled to commence at 11:00 a.m. on April 25, 2023. I called into the teleconference at 11:00 a.m., the line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Landlord. Therefore, as the Tenant did not attend the hearing by 11:11 a.m. and the Landlord appeared and was ready to proceed, I dismiss the Tenant's application without leave to reapply.

I accept the Landlord's testimony that this tenancy ended on January 15, 2023, the date the Tenant move-out and returned the rental unit to the Landlord, and that the Landlord currently has possession of the rental unit.

Conclusion

The Tenant's 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 25, 2023

Residential Tenancy Branch