



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding Pemberton Holmes Property Management  
Ltd. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, LRE

### Introduction

This hearing dealt with an application by the tenants pursuant to the Residential Tenancy Act (the “Act”) for the following orders:

- cancellation of the One Month Notice (the “Notice”), pursuant to section 47; and,
- an order to suspend or set conditions on the landlord’s right to enter the rental unit pursuant to section 70(1).

SS appeared as agent for the corporate landlord. SS was given full opportunity under oath to be heard, to present evidence and to make submissions.

### Preliminary Matter

Although I waited until 11:40 a.m. to enable the tenant to connect with the teleconference hearing scheduled for 11:00 a.m., the tenant did not attend.

Rules of Procedure 7.3 and 7.4 discuss the consequences of a party not attending a hearing.

#### **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.

In accordance with the above, the hearing proceeded in the tenant's absence.

#### **Facts and Analysis**

SS testified that the reasons stated on the Notice have been resolved. As a result, the landlord does not wish to enforce the Notice. Based on the affirmed testimony of SS, I cancel the Notice. The tenancy will continue until such time as it is lawfully ended in accordance with the Act.

According to Rule 6.6 of the Residential Tenancy Branch Rules of Procedure, the burden of proof is on the tenant to prove their claims. The tenant did not attend the hearing or present their evidence. As a result, they have not proven their claim pursuant to section 70(1) of the Act.

#### **Conclusion**

I order that the Notice is cancelled and of no force or effect. The tenancy shall continue.

The tenant's application pursuant to section 70(1) of the Act 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: May 29, 2023

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Residential Tenancy Branch