



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR

Introduction

The tenant applied on March 17, 2023 for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") pursuant to section 46(4)(b) of the *Residential Tenancy Act* (the "Act").

The landlord attended the hearing. No one dialled in on behalf of the tenant during the hearing, which lasted from 1:00 P.M. to 1:13 P.M.

Neither party submitted the Notice as part of their evidence.

Issues

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?

Analysis

As the tenant did not attend the hearing to pursue the tenant's application, I order the tenant's application dismissed, with leave to reapply.

Section 55(1) of the Act provides that, if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the landlord is entitled to an order of possession of the rental unit if (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and (b) the tenant's application is dismissed.

As the Notice was not provided as evidence by either party, there is no Notice in evidence for me to review. Therefore, while the tenant's application is dismissed, I am

unable to come to a finding on whether the Notice complies with section 52 of the Act. Based on this, I find that the landlord is not entitled to an order of possession.

Conclusion

The application is dismissed with 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 02, 2023

Residential Tenancy Branch