

DECISION

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- a Monetary Order for unpaid rent under section 67 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

and the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act

Landlord OTH C.Z. and Landlord OTH A.I. attended the hearing for the Landlord.

Tenant B.P. attended the hearing for the Tenant.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Landlord's Proceeding Package was not served in accordance with the Act. The Landlord confirms not serving their Proceeding Package to the Tenant.

Service of Evidence

Based on the submissions before me, I find that the Landlord's evidence was not served to the Tenant in accordance with section 88 of the Act. The Landlord confirms not serving their evidence to the Tenant and as such their evidence is excluded, with the exception of the tenancy agreement as the Tenant provided a duplicate copy.

Based on the submissions before me, I find that the Tenant's evidence was not served to the Landlord in accordance with section 88 of the Act. The Landlord affirms not receiving any evidence from the Tenant. The Tenant's evidence, with the exception of a copy of the tenancy agreement, are all videos. Rule of Procedure (R.o.P.) 3.10.5 states that before the hearing or conference, a party providing digital evidence to the other party must confirm that the other party has playback equipment or is otherwise able to gain access to the evidence. The Tenant affirms they did not comply with R.o.P.3.10.5, and as such I exclude their video evidence. I allow their provided copy of the tenancy agreement as it is identical to that provided by the Landlord.

Preliminary Matters

Rule of Procedure 3.5 reads as follows:

During the hearing or conference, the applicant must be prepared to demonstrate to the satisfaction of the director that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

If the applicant cannot demonstrate that each respondent was served as required by the Act and the Rules of Procedure, the director may adjourn the application or dismiss it with or without leave to reapply.

Based on my finding that the Landlord failed to serve the Tenant their Proceeding Package, I dismiss their application for an Order of Possession without leave to reapply, and the remainder of their application with leave to reapply.

The Tenant affirms they applied to dispute the One Month Notice more than 10 days after receiving said One Month Notice and they request an extension of this time limit.

The Tenant, to explain why their application is late, writes in their Notice of Dispute Resolution Proceeding the following:

was dealing with ongoing harassment, police involvement, safety concerns for my family, and active efforts to resolve rent arrears through the Ministry of Social Development. Due to stress and fear for our safety, I was unable to file within the original timeline.

No other documentary evidence was provided to support her claim of exceptional circumstances.

Policy Guideline 36 reads as follows:

The word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend that time limit. The word "exceptional" implies that the reason for failing to do

something at the time required is very strong and compelling. Furthermore, as one Court noted, a "reason" without any force of persuasion is merely an excuse. Thus, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.

Some examples of what might not be considered "exceptional" circumstances include:

- the party who applied late for arbitration was not feeling well
- the party did not know the applicable law or procedure
- the party was not paying attention to the correct procedure
- the party changed his or her mind about filing an application for arbitration
- the party relied on incorrect information from a friend or relative

Following is an example of what could be considered "exceptional" circumstances, depending on the facts presented at the hearing:

- the party was in the hospital at all material times

The evidence which could be presented to show the party could not meet the time limit due to being in the hospital could be a letter, on hospital letterhead, stating the dates during which the party was hospitalized and indicating that the party's condition prevented their contacting another person to act on their behalf.

I find the Tenant has not presented sufficient evidence of exceptional circumstances that prevented her from applying for dispute resolution within the required timelines; I dismiss her application without leave to reapply.

Section 55(1) of the Act states that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As neither party has provided me with a copy of the One Month Notice I find I am unable to confirm that said notice to end tenancy conforms with section 52 of the Act. For this reason, I decline to award the Landlord an Order of Possession based on the dismissal of the Tenant's application.

Conclusion

The Tenant's application is dismissed, in its entirety, without leave to reapply.

The Landlord's application for an Order of Possession based on a One Month Notice to End Tenancy for Cause under sections 47 and 55 of the Act is dismissed without leave to reapply.

The Landlord's application for a Monetary Order for unpaid rent under section 67 of the Act is dismissed with leave to reapply.

The Landlord's application for authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act is dismissed with leave to reapply.

The Landlords application for authorization to recover the filing fee for this application from the Tenant under section 72 of the Act dismissed without leave to reapply.

The tenancy continues until it is ended in accordance with 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 Act.

Dated: February 6, 2026

Residential Tenancy Branch