

DECISION

Introduction

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

- an order to end the tenancy based on a frustrated tenancy agreement under section 44 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

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

- an Order of Possession based on the vacate clause in a fixed term tenancy agreement under sections 44(1)(b) and 55 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Tenant P.L. and Tenant M.S. attended the hearing for the Tenant.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

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

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

Service of Evidence

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

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 Tenant confirms not serving their evidence to 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.

As the Tenant affirms they did not serve the Proceeding Package to the Landlord, I find they failed to comply with Rule of Procedure 3.5 and dismiss their application with leave to reapply.

The hearing was scheduled for 1:30pm. Although I waited until 1:42pm, the Landlord did not attend.

Rules 7.1 and 7.3 of the Rules of Procedure read 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.

Accordingly, in the absence of any attendance at this hearing by the Landlord, their application is dismissed without leave to reapply.

Conclusion

The Tenant's application is dismissed, in its entirety, with leave to reapply.

The Landlord's application is dismissed, in its entirety, with 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 11, 2026

Residential Tenancy Branch