



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SELECT REAL ESTATE - PROPERTY MANAGEMENT
DIV and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNC, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice"), pursuant to section 46;
- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated January 25, 2021 ("1 Month Notice"), pursuant to section 47; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The applicant tenant did not attend this hearing, which lasted approximately 13 minutes. The respondent landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant did not attend at the appointed time set for the hearing, although I waited until 11:13 a.m. to enable the tenant to participate in this hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord confirmed that he was the property manager for the landlord company named in this application and that he had permission to speak on its behalf.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

During the hearing, the landlord stated that a 10 Day Notice was not issued to the tenant.

Preliminary Issue – Dismissal of Tenant’s Application

Rule 7.3 of the Residential Tenancy Branch *Rules of Procedure* provides as follows:

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.

In the absence of any appearance by the tenant, I order the tenant’s application to cancel the 10 Day Notice and to recover the \$100.00 filing fee dismissed without leave to reapply.

Analysis

Pursuant to section 55 of the *Act*, if I dismiss the tenant’s application to cancel a 1 Month Notice, the landlord is entitled to an order of possession, provided that the notice meets the requirements of section 52 of the *Act*.

The landlord stated that he did not require an order of possession against the tenant because the landlord settled its issues with the tenant. The landlord agreed that the landlord’s 1 Month Notice, dated January 25, 2021, was cancelled.

Accordingly, I notified the landlord that I would not issue an order of possession against the tenant and that the landlord’s 1 Month Notice, dated January 25, 2021, was cancelled and of no force or effect. The landlord confirmed his understanding and agreement to same.

Conclusion

The tenant’s application to cancel the 10 Day Notice and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlord is not entitled to an order of possession against the tenant.

The landlord's 1 Month Notice, dated January 25, 2021, is cancelled and of no force or effect.

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 23, 2021

Residential Tenancy Branch