# Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

## DECISION

Dispute Codes        **AS, CNQ, FFT**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of a Two Month Notice pursuant to section 49;

- An order to allow an assignment or sublet when permission has been unreasonably denied pursuant to section 65;

- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The landlord attended with her daughter and agent PP ("the landlord"). The landlord was given the opportunity to make submissions as well as present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask question.

The landlord stated they were not recording the hearing.

The landlord provided their email address for receipt of the Decision.

*Service upon Landlord*

The landlord testified they were not served with the Notice of Hearing or Application for Dispute Resolution. The landlord stated they were informed about the hearing by an automatically generated email from the RTB.

*Dismissal of Tenant's claim*

The tenant did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 21 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the landlord had been provided.

Rule 7.3 of the 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 reapply.*

As the applicant tenant did not attend the hearing and in the absence of any evidence or submissions on their behalf, I order the tenant's application dismissed without leave to reapply.

*Order of Possession*

The landlord requested an Order of Possession pursuant to section 55 which states as follows:

> *55 (1) 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*

*(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*

*(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord provided uncontradicted testimony as the tenant did not attend the hearing. The landlord testified as to the background of the tenancy as follows:

| INFORMATION | DETAILS |
|---|---|
| Type of tenancy | monthly |
| Date of beginning | June 1, 2019 |
| Date of ending | ongoing |
| Monthly rent payable on 1$^{st}$ | $3,750.00 |
| Security deposit | $2,000.00 |
| Date of landlords' Application | October 18, 2021 |

The landlord testified they issued a Two Month Notice dated October 1, 2021 with an effective date of December 1, 2021.

The landlord did not submit a copy of the Two Month Notice.

Analysis

As stated in section 55 quoted above, the landlord is entitled to an Order of Possession only if the Two Month Notice complied with section 52. As the landlord did not submit a copy of the Two Month Notice, I am unable to determine that the Notice complied with the Act.

I therefore dismiss the landlord's application for an Order of Possession with leave to reapply.

Conclusion

The
 tenant's application is dismissed without leave to reapply.

The landlord's application for an Order of Possession 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: November 23, 2021

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Residential Tenancy Branch