



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, FFT

Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated August 17, 2022 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The applicant tenant did not attend this hearing, which lasted approximately 11 minutes. The respondent landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 9:30 a.m. and ended at 9:41 a.m. I monitored the teleconference line throughout this hearing. 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 provided his name, spelling, and the rental unit address. He confirmed that he owns the rental unit. He provided an email address for me to send a copy of this decision to him after the hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, the landlord affirmed, under oath, that he would not record this hearing.

I explained the hearing process to the landlord. He had an opportunity to ask questions. He did not make any adjournment or accommodation requests.

The landlord stated that he received a copy of the tenant's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to add the landlord's first name, correct the landlord's middle name, and change the city of the rental unit address. The landlord consented to these amendments during this hearing. I find no prejudice to the tenant in making these amendments.

Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the RTB *Rules* states the following:

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 entire application dismissed without leave to reapply. I informed the landlord of my decision verbally during this hearing.

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. He stated that the tenant moved out of the rental unit, and he took back possession of it. I notified him that I would not issue an order of possession to him, against the tenant, since he did not require one. He confirmed his understanding of same.

Conclusion

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

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

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: January 12, 2023

Residential Tenancy Branch