



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            CNL, FF, OLC, OPT, O

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the two month Notice to End Tenancy was sufficiently served on the Tenant by posting on August 13, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants by mailing, by registered mail to where the landlord resides on August 26, 2015.

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the two month Notice to End Tenancy dated August 13, 2015?
- b. Whether the Tenants are entitled to a Tenant's Order of Possession?
- c. Whether the Tenants are entitled to an Order that the Landlord comply with the Act, Regulations and/or tenancy agreement?
- d. Whether the tenant is entitled to recover the cost of the filing fee?

### Background and Evidence

The tenancy began approximately 3 years ago. The parties entered into a 6 month fixed term tenancy agreement on October 1, 2014 which became month to month after that. The tenancy

agreement provided that the tenant(s) would pay rent of \$1575 per month payable in advance on the first day of each month.

The landlord served a two month Notice to End Tenancy on the Tenants on August 13, 2015. The tenants vacated the rental unit on September 15, 2015. The tenants stated they do not have any interest in returning to the rental unit. However, they submit they are entitled to compensation.

Analysis:

The tenants do not wish to return to the rental unit and do not wish to have the tenancy reinstated. **As a result I order that the tenants' application to cancel the 2 month Notice to End Tenancy and the application for a Tenants' Order of Possession be dismissed without leave to re-apply.**

The tenant's submit they are entitled to compensation. The within application did not include a claim for a monetary order as at the time it was filed the tenants wished to remain in the rental unit. The tenants did not amend this application after they vacated and have not filed a Monetary Order worksheet. I determined it was not appropriate the tenants' claim for compensation as it was not identified in the Application for Dispute Resolution. The Tenants have the right to file a new application should they wish. I dismissed the tenants' claim for an order that the Landlord comply with the Act, Regulations and/or tenancy agreement as that is best decided by the arbitrator who considers the tenants' application for a monetary order. The tenants have not been successful and accordingly, I dismissed their application to recover the cost of the filing fee.

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: October 14, 2015

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Residential Tenancy Branch

