



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LAT, RR, FF

### Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenants on March 22, 2017 for the following reasons: authorisation to change the locks to the rental unit; for the Landlord to reduce rent for repairs, services or facilities agreed upon but not provided; and to recover the filing fee.

Both parties appeared for the hearing and the Landlords were represented by legal counsel.

### Preliminary Issues

At the beginning of the hearing, I explained how the dispute resolution hearing would proceed pursuant to Rule 7.5 of the Dispute Resolution Rules of Procedure (the “Rules”). The parties were informed that pursuant to Rule 6.11 that any recording of the hearing is prohibited and that an official transcript of the hearing has to be arranged prior to a hearing in accordance with Rule 6.12. The parties were then asked if they had any relevant questions about the hearing process.

The female Tenant stated that they did not know they could not record the hearing or that they were able to bring legal counsel to the hearing. The female Tenant submitted that they were disadvantaged because they were up against the Landlord’s legal counsel and if they had known they would have retained legal counsel to represent them at this hearing. The female Tenant submitted that they wanted to rely on a transcript of recordings they had made of conversations between the Tenants and the Landlords that proved their case; this evidence was not before me. The female Tenant explained that they were unable to provide this for the hearing because the Landlords could not receive this evidence by digital means and therefore the transcription process

was taking longer than anticipated. On this basis, the Tenants requested an adjournment of the proceedings.

Legal counsel argued that the Tenants had been given sufficient time to prepare their evidence for this hearing and that the Landlords would be disadvantaged by allowing an adjournment as they had retained counsel at their own cost and time.

The Tenants were informed that pursuant to Rule 6.7 any party is a liberty to be represented or assisted at a hearing, and this includes legal counsel. However, I informed the parties that I would take into consideration their arguments in considering whether to proceed with or adjourn the hearing.

However, in the alternative, the parties agreed that the Tenants will withdraw the Application before me and will be provided leave to re-apply. Both parties consented to this course of action and both parties understood that the Tenants were able to re-apply after gathering the necessary evidence and speaking to their legal counsel on the matters pertaining to their evidence. I also allowed this course of action in an effort to give the parties an opportunity to resolve these matters outside of the dispute resolution process. In this respect, a mutual agreement between the parties on these issues may be better resolution than one forced upon the parties. However, the parties are not obligated to pursue mutual resolution.

The female Tenant then informed me that on April 24, 2017, the Landlords had served them with a 2 month notice to end tenancy for the Landlord's use of the property. The female Tenant explained that she had filed an amendment to the Application on April 25, 2017 with the Residential Tenancy Branch and served a copy of the amended Application to the Landlords. The female Tenant explained that the amendment was to dispute the 2 month notice because the Landlord was using the 2 month notice to end the tenancy because he did not want to do repairs to the rental unit.

During the hearing, I examined the electronic records for this file as the Tenants' amended Application or the 2 month notice was not before me. At the time of the hearing, the audit notes indicated that the Tenants had been cautioned regarding the time limit for filing the amended Application.

In this respect Rule 4.6 determines the time limit for making an amendment as 14 days before the hearing. There was no record of the Tenants' amendment being (a) received by the Residential Tenancy Branch and (b) that it was processed and authorized for amendment prior to this hearing taking place.

Legal counsel for the Landlords confirmed receipt of the Tenant's amended Application but stated that the Residential Tenancy Branch had provided no information whether the amendment had been authorized and therefore, the Landlords had not appeared for this hearing to argue the 2 month notice and had not provided any evidence to support it for this reason. Therefore, this would create significant prejudice to the Landlords who have to meet the burden to prove the 2 month notice as this evidence had not been served by the Landlords.

Based on the foregoing submissions and pursuant to Rule 4.7 which allows a party to object to a proposed amendment, I find that the Tenants did not submit the amended Application within the time limits set by Rule 4.6 and that the short time period in between the amendment being filed as claimed by the Tenants does not allow the issue of the 2 month notice to be determined in this hearing without there being significant prejudice to the Landlords. Therefore, I declined the Tenants' amended Application which is hereby dismissed with leave to re-apply. The Tenants were cautioned about the 15 day time limit they have to file another Application to dispute the 2 month notice.

In conclusion, the Tenants withdrew their Application to authorise a change of locks and for a reduction in rent. The Tenants are provided with leave to re-apply and must serve all evidence they intend to rely on for the next hearing for these two issues. The Tenant's amended Application could not be dealt with in this hearing. Therefore, it is dismissed with leave to re-apply. The Tenants are cautioned about the statutory time limit they have to dispute the 2 month notice.

The parties were informed of the above conclusion at the end of the hearing and neither party raised any objection or asked any further questions.

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: May 02, 2017

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Residential Tenancy Branch