



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the "Act"), to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice").

The tenants attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenants testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on July 6, 2017, a Canada post tracking number was provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlord has been duly served in accordance with the Act.

The tenants appeared gave testimony and were provided the opportunity to present their evidence orally and in written, documentary form, and make submissions at the hearing.

### Issues to be Decided

Should the Notice be cancelled?

### Background and Evidence

The Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on August 21, 2017. The Notice was issued on June 20, 2017.

### Analysis

Based on the above, the testimony and evidence, an on a balance of probabilities, I find as follows:

In a case where a tenant has applied to cancel a Notice, Rule 11.1 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

This matter was set for hearing by telephone conference call at 11:00 A.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time were the tenants.

Since the landlord did not attend the hearing by 11:10 A.M to present any evidence or submission in support of the Notice, and the burden is on the landlord to prove the Notice was issued for the reasons stated. I find that the landlord not met the burden of proof.

Therefore, I grant the tenants' application to cancel the Notice issued on June 20, 2017, and the Notice has no force or effect. The tenancy will continue until legally ended in accordance with the Act.

#### Conclusion

The tenants' application to cancel the Notice is granted. The tenancy will continue until legally ended in accordance with the Act.

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: September 15, 2017

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Residential Tenancy Branch