



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAXIMUM INCOME PROPERTY MANAGEMENT CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MT, CNL

### Introduction

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

- more time to make an application to cancel the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 66; and
- cancellation of the landlord's 2 Month Notice pursuant to section 49.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord's agent who attended this hearing (the landlord) testified that he sent the tenants the 2 Month Notice by registered mail on October 13, 2017. He entered into written evidence a copy of the Canada Post Tracking Number and Customer Receipt as well as a copy of the Canada Post Tracking System, which confirms the history of the mailing of this document, two notices provided to the tenants by Canada Post, and the subsequent return of this Notice to the sender. The tenant provided written evidence and sworn testimony that the tenants never received this document or any notice from Canada Post regarding the availability of this Notice for pickup at a local postal outlet. The tenant entered written evidence that there has been a problem with mail delivery in this rental building for a number of years and that Canada Post employees are unable to access the building to post delivery notices on tenants' doors. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 2 Month Notice on October 18, 2017, the fifth day after their registered mailing.

As the landlord confirmed that the tenants' dispute resolution hearing package sent by the tenants on December 11, 2017 by registered mail was received by the landlord, I

find that the landlord was duly served with this package in accordance with section 89 of the *Act*.

As both parties confirmed receipt of one another's written evidence, I find that these documents were duly served to one another in accordance with section 88 of the *Act*.

#### Issues(s) to be Decided

Should an extension of time be allowed to the tenants to apply for cancellation of the landlord's 2 Month Notice? Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

#### Background and Evidence

This month-to-month tenancy began on February 4, 2016, by which time the tenants had moved into this rental unit from another rental unit in the same rental building. Monthly rent is set at \$850.00, payable in advance on the first of each month. The landlord continues to hold a security deposit paid by the tenants during a previous tenancy of another rental unit in this building.

The landlord's 2 Month Notice advised the tenants that the landlord needed the rental unit so that the landlord's son could move into the rental unit.

#### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on June 1, 2018, by which time the tenants and all occupants of the rental unit will have surrendered vacant possession of the rental unit to the landlord.
2. The landlord agreed to withdraw the 2 Month Notice of October 13, 2017.
3. The landlord agreed that the tenants will not pay any rent for May 2018, the last full month of their tenancy.

4. The landlord agreed to provide both tenants with letters of reference regarding their tenancies.
5. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenants' application and all issues currently in dispute arising out of this tenancy and that they did so of their own free will and without any element of force or coercion.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord only in the event that the tenants do not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with these Orders as soon as possible following any failure of the tenants to abide by the terms of their agreement and vacate the rental unit by 1:00 p.m. on June 1, 2018. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The 2 Month Notice of October 13, 2017, is hereby withdrawn and is of no force or effect.

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 22, 2018

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Residential Tenancy Branch