



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      CNL FFT

### **Introduction**

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), pursuant to section 49; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenants did not. I waited until 11:10 a.m. to enable the tenants to participate in this scheduled hearing for 11:00 a.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

### **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.

The landlord provided undisputed testimony that on July 24, 2018 the tenants were served with the 2 Month Notice, with an effective date of September 30, 2018, by placing the Notice in their mailbox. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 2 Month Notice on July 27, 2018, three days after the notice was placed in their mailbox.

### **Issue(s) to be Decided**

Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

### **Background and Evidence**

The landlord gave undisputed testimony regarding the following facts. This month-to-month tenancy began in August 2010. The current landlord purchased the property in March of 2017. Monthly rent is currently set at \$936.00, payable on the first of each month. The landlord testified that they were not in possession of a security deposit for this tenancy. The tenants continue to reside in the rental unit.

The landlord issued the 2 Month Notice, with an effective move-out date of September 30, 2018 for the following reason:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

The landlord provided the following background for why they had decided to issue the 2 Month Notice. They testified that the 2 Month Notice was issued as the landlord's mother wanted to occupy the rental unit.

### **Analysis**

Section 55(1) of the *Act* reads as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
  - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

**In the absence of any evidence or submissions from the tenants, I order the tenants' application dismissed without liberty to reapply.** I find that the 2 Month Notice complies with section 52 of the *Act*.

Based on my decision to dismiss the tenants' application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy will end on the effective date of the 2 Month Notice, September 30, 2018. I find that the landlord is entitled to an Order of Possession for September 30, 2018. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit by September 30, 2018, the landlord may enforce this Order in the Supreme Court of British Columbia.

### **Conclusion**

I dismiss the tenants' entire application without leave to reapply.

I grant an Order of Possession to the landlord effective September 30, 2018. Should the tenant(s) or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 25, 2018

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Residential Tenancy Branch