



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0916516 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL, MNDCT

### Introduction

This hearing was scheduled to deal with a tenant's application to cancel a *2 Month Notice to End Tenancy for Landlord's Use of Property* and monetary compensation for damages or loss under the Act, Regulations or tenancy agreement. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

### Preliminary and Procedural Matters

The tenant had a witness appear at the commencement of the hearing. The witness was excluded after providing a telephone number where he could be reached; however, it was not necessary to call the witness during the remainder of the hearing.

I noted the tenant identified the landlord in an unusual manner in making his Application. I confirmed the correct identity of the landlord and amended the style of cause accordingly. The landlord is a corporation and the corporation was represented by its principle shareholder during the hearing.

The tenant confirmed that he continues to occupy the rental unit and seeks to continue the tenancy. As such, I determined it necessary and appropriate to proceed to resolve the dispute concerning the 2 Month Notice and I severed the tenant's monetary claim for electricity costs pursuant to Rule 2.3 and Rule 6.2 of the Rules of Procedure which provide:

#### **2.3 Related issues**

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

## **6.2 What will be considered at a dispute resolution hearing**

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application. The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [Related issues]. For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.

Aside from being an unrelated issue, I also noted that the tenant had not provided a detailed monetary calculation for his monetary claim or provide supporting documents such as electricity bills, as required by the Rules of Procedure. The tenant's monetary claim is dismissed with leave to reapply.

I informed the parties that a copy of the 2 Month Notice was not in the documentation before me. The tenant stated that he had provided it to the Service BC staff when he filed his Application and the clerk returned it to him. The landlord stated that the tenant did not include a copy of the 2 Month Notice in the documents the tenant served upon him. The landlord also stated he did not make a copy of the 2 Month Notice.

I proceeded to hear from the parties with respect to the landlord's reasons for issuing the 2 Month Notice and I heard the tenant's responses.

I ordered the tenant to deliver a copy of the 2 Month Notice to the Service BC office by the end of the business day on October 5, 2018. The tenant indicated he would try to locate the 2 Month Notice and if he does he will provide it as ordered. I informed the parties that I would hold my decision in abeyance, pending the delivery of the 2 Month Notice by the end of the business day on October 5, 2018. I cautioned the parties that if the tenant does not provide a copy of the 2 Month Notice as ordered I will dismiss his request to cancel the 2 Month Notice; however, in the absence of a copy of the 2 Month Notice I am unable to verify the content of the 2 Month Notice and I will not issue an Order of Possession to the landlord.

As of the date of this decision, a copy of the 2 Month Notice was not provided by the tenant. I note that the Residential Tenancy Branch records reflect that a telephone call was received from an Advocate, on behalf of the tenant, on October 5, 2018 to state that the tenant could not locate the 2 Month Notice.

Section 59 of the Act requires an applicant to provide the full particulars of the nature of their dispute. Rule 2.5 of the Rules of Procedure require than an applicant provide a copy of the Notice to End tenancy they seek to dispute and Rule 3.1 requires the applicant must serve a copy of it to the respondent. These requirements are in keeping with the principles of natural justice which the dispute resolution process is based. I have not been provided the Notice to End Tenancy by the tenant and the tenant claims to have lost it. Where a tenant seeks to dispute a Notice to End Tenancy I can think of no other document that is more important than the Notice to End tenancy. In the absence of a copy of the Notice to End Tenancy the tenant seeks to dispute, I dismiss the tenant's request that I cancel it. I find it unnecessary to further consider whether the landlord established a reason for ending the tenancy and I make no such finding.

Section 55(1) of the Act provides that an Order of Possession will be provided to the landlord in certain circumstances. Accordingly, I proceed to analyze whether the landlord is entitled to an Order of Possession.

#### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

#### Background and Evidence

The parties provided consistent testimony that the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property on July 31, 2018; however, neither party had a copy of it during the hearing and were unable to provide a copy of the Notice despite my order to do so.

#### Analysis

Section 55(1) of the Act provides 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 this case, I have dismissed the tenant's application to cancel the 2 Month Notice. However, in the absence of a copy of the 2 Month Notice I am unable to verify that it meets the form and content requirements of section 52 of the Act. Therefore, I am not satisfied that the landlord is entitled to an Order of Possession and I do not provide one with this decision.

### Conclusion

The tenant's application to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property is dismissed.

In the absence of a copy of the subject 2 Month Notice I am unable to determine whether a 2 Month Notice that meets the form and content requirements of the Act was served upon the tenant and I do not provide the landlord with an Order of Possession to the landlord as provided under section 55(1) of the Act.

I have made no findings as to whether the landlord established a basis for ending the tenancy for landlord's use of property.

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 09, 2018

---

Residential Tenancy Branch