



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, MT

### Introduction

The Tenant filed an initial Application for Dispute Resolution to dispute a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice"), and for more time in which to dispute the notice. A teleconference hearing was held on October 26, 2018, with a decision issued on October 29, 2018. The Tenant applied for a review consideration of the decision which was granted on November 7, 2018. The review hearing was scheduled for December 17, 2018 to re-hear the Tenant's claims regarding the dispute over the Two Month Notice and the Tenant's application for more time in which to dispute the notice.

The Landlord, legal counsel for the Landlord and the current property owner attended the review hearing, while no one attended for the Tenant. The hearing began at the scheduled time of 11:00 am and concluded at 11:05 am as legal counsel for the Landlord confirmed that the tenancy had ended when the Tenant moved out on November 13, 2018.

### Issues to be Decided

Should the Two Month Notice to End Tenancy for Landlord's Use of Property be cancelled?

If the Two Month Notice to End Tenancy for Landlord's Use of Property is upheld, is the Landlord entitled to an Order of Possession?

Should the Tenant be granted more time in which to dispute the Two Month Notice?

### Background and Evidence

The Landlord stated that he had provided permission for the Tenant to cancel the hearing, but they called into the hearing in case it had not been cancelled. Legal counsel for the Landlord stated that the Tenant moved out on November 13, 2018.

The current property owner confirmed that he is residing in the rental property and therefore has possession of the rental unit and does not require an Order of Possession. As the Landlord, legal counsel for the Landlord, and the current property owner stated that the tenancy had ended, no further testimony was taken and the hearing concluded.

### Analysis

Rule 7.1 of the *Residential Tenancy Branch Rules of Procedure* states the following regarding commencement of the hearing:

*The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.*

Rule 8.1 of the *Rules of Procedure* states the following regarding when the hearing ends:

*The arbitrator determines when the hearing has ended.*

As the parties for the Landlord were present on the teleconference hearing at 11:00 am when the hearing began, the hearing started at 11:00 am as scheduled. As the Landlord, legal counsel for the Landlord, and the current property owner all confirmed that the tenancy had ended, the hearing concluded at 11:05 am.

As stated in rule 7.3 of the *Rules of Procedure*, if a party does not attend, the hearing may continue in their absence or their application may be dismissed. As the Tenant did not attend the hearing at the scheduled time, the Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

In accordance with Section 55 of the *Act*, when a tenant's application to cancel a notice to end tenancy is dismissed, the landlord must be granted an Order of Possession. However, I accept the testimony of the Landlord and the new property owner that the

tenancy has ended and therefore an Order of Possession is not required. Therefore, I do not find it necessary to issue an Order of Possession.

Conclusion

The Application for Dispute Resolution is dismissed, without leave to reapply.

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: December 18, 2018

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Residential Tenancy Branch