



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SYNDICHAU DEVELOPMENT INC. C/O REMI REALTY  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "*Act*") for an order to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property pursuant to section 49.

The landlord did not attend the hearing although I left the teleconference hearing connection open until 11:16 a.m. to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant testified she served the landlord with the Application for Dispute Resolution Proceedings Package by registered mail within two days of receiving it from the Residential Tenancy Branch. She did not retain the receipt for the mailing or the tracking number to confirm delivery.

The tenant testified she again sent the landlord the Application for Dispute Resolution Proceedings Package on October 11, 2019 together with her evidence by registered mail and provided the tracking number for the mailing. The tracking number is listed on the cover page of this decision. The tenant testified it was received by the landlord on October 15<sup>th</sup>. The tenant also testified that she received evidence from the landlord by email the day of the hearing, on October 29<sup>th</sup>. I note the landlord uploaded evidence to the Residential Tenancy Branch online dispute site on the same day. Given these facts, I am satisfied the landlord was served with the Application for Dispute Resolution Proceedings Package pursuant to section 71 of the *Act*.

Issue(s) to be Decided

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

Background and Evidence

The tenant testified she signed a tenancy agreement with the landlord at the beginning of the tenancy, however the landlord has not provided her with a copy of it. All she had in her possession was the application form she provided to the landlord before the tenancy began.

The tenant testified the landlord had previously served her with a Two Month Notice to End Tenancy for Landlord's Use in June, however this Notice was successfully disputed. The tenant acknowledges she was served with another Two Month Notice to End Tenancy for Landlord's Use on August 26, 2019 and filed an application to dispute it on September 6, 2019.

Analysis

Section 49 of the *Act* provides that upon receipt of a Notice to End Tenancy for Landlord's Use, the tenant may, within fifteen days, dispute it by filing an application for dispute resolution with the Residential Tenancy Branch. I find the tenant filed to dispute the Notice within the fifteen days as required by section 49.

If the tenant files the application, the landlord bears the burden to prove on a balance of probabilities, the validity of the grounds for issuing the 2 Month Notice and that the Notice is on the approved form; pursuant to 52 of the *Act* and Rule 6.6 of the Residential Tenancy Branch Rules of Procedure.

Rule 7.3 of the Rules of Procedure provides that 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. Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any testimony or evidence from the landlord, who bears the burden of proof in this matter, I find the landlord has failed to prove the grounds for issuing the Notice to End Tenancy.

The tenant's application is successful and the landlord's Notice to End Tenancy signed on August 26, 2019 is cancelled and of no further force or effect.

Conclusion

The landlord's Notice to End Tenancy signed on August 26, 2019 is cancelled and of no further force or effect.

The tenancy will continue until 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: October 29, 2019

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Residential Tenancy Branch