



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LIVING MIDTOWN 4 DEVELOPMENT LIMITED  
PARTNERSHIP and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL-4M, OLC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants filed under the *Residential Tenancy Act* (the “Act”), to cancel Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit, (the “Notice”) issued on December 20, 2019, and for an Order for the Landlord to comply with the Act. The matter was set for a conference call.

The Landlord attended the conference call hearing; however, the Tenants did not. As the Tenants are the applicants in this hearing, I find that the Tenants had been duly notified of the Notice of Hearing in accordance with the Act.

The Landlord was affirmed to be truthful in their testimony and was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Should the Notice to End Tenancy be cancelled?
- If not, is the Landlord entitled to an Order of Possession?
- Should the Landlord be ordered to comply with the Act?

### Background and Evidence

The Landlord testified that, they purchased the rental property in August 2018, and they believe the tenancy began about 22 years ago. Rent in the amount of \$855.00 is to be paid by the first day of each month, and they are unsure if the Tenants paid security deposit at the beginning of tenancy.

The Landlord testified that they personally issued the Notice to the Tenants on December 20, 2019. The reasons checked off by the Landlord within the Notice are as follows:

- *demolish the rental unit*

The Notice states the Tenants must move out of the rental unit by April 30, 2020. The Notice informed the Tenants of the right to dispute the Notice within 10 days after receiving it.

The Landlord requested the Order of Possession. The Landlord testified that they were aware of the Provincial Government media release regarding the moratorium on evictions in British Columbia as a result of the Covid-19 pandemic. The Landlord testified that they would not take action to remove the Tenants from the rental unit until the Provincial Government removes their moratorium on evictions in British Columbia.

### Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

I find that the Tenants received the Notice on December 20, 2019, and did apply to dispute the Notice. This matter was set for hearing by telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing was the Landlord.

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

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

**7.3** 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.

Therefore, as the Tenants did not attend the hearing by 9:41 a.m. I dismiss the Tenants' application without leave to reapply.

Section 55(1) of the *Act* states:

**Order of possession for the landlord**

- 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.

I have reviewed the Notice to end tenancy, and I find the Notice complies with section 52 of the *Act*.

As I have dismissed the Tenants' application, pursuant to section 55 of the *Act*, I must grant the Landlord an order of possession to the rental unit.

**I acknowledge, that on March 25, 2020, the Provincial Government issued a media release indicating that there would be a moratorium on evictions in British Columbia as a result of the Covid-19 pandemic. As of the time of this hearing no changes have been made to the *Residential Tenancy Act*, the *Manufactured Home Park Tenancy Act* and respective *Regulations*. As an Arbitrator with delegated authority under the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*, I am obligated to make my decisions according to the *Act(s)* and *Regulations* as they read on the date of the hearing.**

Therefore, I find that the Landlord is entitled to an order of possession effective not later than 1:00 p.m. on April 30, 2019. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. The Tenants are cautioned that costs of such enforcement is recoverable from the Tenant.

Conclusion

The Tenants' application is dismissed, without leave to reapply.

I grant an **Order of Possession** to the Landlord effective not later than **1:00 p.m. on April 30, 2020**. The Tenants must be served with this Order. Should the tenants 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: March 26, 2020

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Residential Tenancy Branch