



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL

### Introduction

On October 27, 2020, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a Two Month Notice to End Tenancy for Landlord Use of Property dated December 6, 2020 (“the Two Month Notice”).

This matter was set for hearing by telephone conference call at 11:00 am on this date. The Tenants appeared at the hearing; however, the Landlord did not. The line remained open while the phone system was monitored for twenty-five minutes and the Landlord did not call into the hearing during this time.

The Tenant, Mr. A.D. testified that he served the Landlord with the Notice of Dispute Resolution Proceeding on December 31, 2020 by placing it in the Landlord’s mailbox at the address the Landlord provided in the Two Month Notice for service of documents. The Tenant testified that he also had a conversation with the Landlord and informed him that the Two Month Notice had been disputed.

I find that the Landlord was served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the Act. The Landlord failed to attend the hearing to pursue enforcement of the Two Month Notice.

The Two Month Notice cites the reason for ending the tenancy as:

*The rental unit will be occupied by the Landlord or the Landlord’s close family member. The unit will be occupied by the Landlord or the Landlord’s spouse.*

The Two Month Notice provides information for Tenants who receive the Notice. The Notice provides that a Tenant has the right to dispute it within 15 days after it is received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant testified that the Two Month Notice was received in person from the Landlord on October 11, 2020. The Tenants applied to dispute the Two Month Notice on October 27, 2020.

### Analysis

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

The Landlord made an error on the Two Month Notice by indicating the Notice was signed by the Landlord on December 6, 2020. Page two of the Two Month Notice indicates the Landlord served the Notice to the Tenants on October 6, 2020. However, since the Landlord was not present to provide testimony, I accept the Tenant's testimony that the Two Month Notice was received by the Tenants in person on October 11, 2020.

I find that the Tenants applied to dispute the Two Month Notice on October 27, 2020. I find that the Tenants failed to dispute the Two Month Notice within 15 days of receiving the Notice. The Tenants' application is late, and the application did not include a request for more time to dispute a notice to end tenancy.

The Tenant's application to cancel the Two Month Notice to End Tenancy for Landlord's Use of Property dated December 6, 2020, is dismissed.

Where an application to dispute a notice to end tenancy is made late and is dismissed, section 55 of the Act provides that the Landlord is entitled to an order of possession.

Since the Landlord failed to attend the hearing to provide testimony and pursue enforcement of the Two Month Notice, I decline to issue the Landlord an order of possession for the rental unit.

The Residential Tenancy Branch case management system indicates that the Landlord has applied for dispute resolution regarding the Two Month Notice and a hearing is scheduled for March 2, 2021. The Landlords entitlement to an order of possession can be determined at that hearing.

Conclusion

The Landlord failed to attend the hearing to pursue enforcement of the Two Month Notice issued to the Tenants.

The Tenant's Application to cancel the Two Month Notice to End Tenancy for Landlord's Use of Property was made late. The Tenants' application is dismissed.

Since the Landlord did not attend the hearing an order of possession for the rental unit was not issued.

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: January 18, 2021

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Residential Tenancy Branch