



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL, FFT

### Introduction

On March 10, 2021, the Tenants applied for a Dispute Resolution proceeding seeking to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") pursuant to Section 49 of the *Residential Tenancy Act* (the "Act") and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Tenant M.A. attended the hearing, and the Landlord attended the hearing as well. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that, with the Landlord's consent, he served the Landlord with the Notice of Hearing package by email on or around March 15, 2021. The Landlord confirmed that he received this package. Based on this undisputed testimony, I am satisfied that the Landlord was duly served the Notice of Hearing package.

He also advised that he served the Landlord with their evidence by email on May 30, 2021. Regarding his digital evidence, he stated that the Landlord made reference to the contents of their video and audio evidence; therefore, the Landlord was able to view and listen to these documents.

The Landlord confirmed that he received this evidence; however, he provided contradictory testimony with respect to his ability to view and listen to the digital evidence. Based on this inconsistent testimony, I am doubtful of the credibility of the Landlord's submissions. As such, I am satisfied that he was served all of the Tenants'

evidence and that he was more likely than not, able to view and listen to that evidence. Consequently, I have accepted this evidence and will consider it when rendering this Decision.

The Landlord advised that he served his evidence to the Tenants by hand on June 9, 2021 and the Tenant confirmed that they received this evidence. Base on this undisputed testimony, as this evidence was served in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

#### Issue(s) to be Decided

- Are the Tenants entitled to have the Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Are the Tenants entitled to recover the filing fee?

#### Settlement Agreement

The possibility of a settlement was raised, pursuant to Section 63(1) of the *Act*, which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The Notice of February 27, 2021 is cancelled and of no force or effect.
2. The Tenants will continue to have possession of the rental unit under the same terms of the existing tenancy agreement.
3. The parties agreed that fulfilment of these conditions would amount to full and complete satisfaction of this Application.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the binding nature of this full and final settlement of these matters.

### Conclusion

I have recorded the terms of settlement in this Decision and in recognition of the settlement agreement, based on the above, I hereby order that the Two Month Notice to End Tenancy for Landlord's Use of Property of February 27, 2021 to be cancelled and of no force or effect.

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: June 17, 2021

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Residential Tenancy Branch