



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, DRI, LRE, LAT, OLC, FF

### Introduction

On March 21, 2021, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) requesting the following relief:

- to cancel a Two Month Notice to End Tenancy for Landlord Use of Property.
- to dispute a rent increase.
- to suspend or restrict the Landlords right of entry.
- for authorization to change the locks.
- for the Landlord to comply with the Act, Regulation, or tenancy agreement.

On June 21, 2021 the Tenants amended their application to include a claim for monetary compensation.

The matter was set for a conference call hearing. The Landlord and Tenants attended the hearing.

The hearing process was explained, and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me. The parties were informed that recording the hearing is not permitted.

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.

### Preliminary and Procedural Issues

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. For example, if a party has applied to cancel a notice to end tenancy, or is applying for an order of possession, an Arbitrator may decline to hear other claims that have been included in the application and the Arbitrator may dismiss such matters with or without leave to reapply.

I find that the most important matter to determine is whether or not the tenancy is ending based on a notice to end tenancy. The Tenants' other claims are dismissed with leave to reapply.

#### Issue to be Decided

- Is the tenancy ending based on a Two Month Notice to End Tenancy for Landlord's Use of Property?

#### Background and Evidence

The Landlord and Tenants testified that the tenancy began on April 15, 2019, as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$900.00 is to be paid to the Landlord by the fifteenth day of each month. The Tenants paid the Landlord a \$450.00 security deposit. The Landlord provided a copy of the tenancy agreement.

The Tenants testified that they received a letter from the Landlord telling them to move out of the rental unit. The Tenants testified that they did not receive a proper Two Month Notice to end tenancy on an RTB/ government form.

The Tenants applied for Dispute Resolution on March 21, 2021, to dispute the letter asking them to leave.

The Landlord provided testimony confirming that the Landlord did not issue a Two Month Notice to End Tenancy for Landlords Use of Property on a proper form.

The Tenants testified that on June 12, 2021, they signed a mutual agreement to end tenancy. The mutual agreement to end tenancy is effective July 1, 2021. The Tenants testified that they moved out of the rental unit on June 28, 2021.

The Landlord provided testimony confirming that the parties signed a mutual agreement to end tenancy and that the Tenants moved out of the rental unit on June 28, 2021.

The Tenants provided a copy of the mutual agreement to end tenancy. The mutual agreement form is signed by the Landlord and Tenant and provides that the Tenants agree to vacate the premises at 12:00 pm on July 1, 2021.

### Analysis

Section 44 of the Act provides that a tenancy ends only if one or more of the following applies:

- the landlord and tenant agree in writing to end the tenancy.

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

The Landlord never issued a proper Two Month Notice to end tenancy and therefore the Landlord's letter asking the Tenants to leave is invalid. The tenancy did not end based on the issuance of a Two Month Notice to End Tenancy.

The Landlord and Tenant signed a Mutual Agreement to End Tenancy effective July 1, 2021. I find that the mutual agreement is valid. I find that the Tenants moved out of the rental unit on June 28, 2021. The tenancy has ended based on the Mutual Agreement.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenants entered into a mutual agreement to end the tenancy after applying for dispute resolution and moved out of the rental unit prior to the hearing, I decline to award the cost of the \$100.00 filing fee.

The Tenants are granted leave to reapply for money owed or compensation for damage or loss.

### Conclusion

The Landlord and Tenants signed a Mutual Agreement to End Tenancy effective July 1, 2021. I find that the tenancy ended on June 28, 2021 when the Tenants moved out of the rental unit.

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: July 06, 2021