



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

CNL, OLC, FFT

### Introduction

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant, in which the Tenant applied to cancel a Two Month Notice to End Tenancy for Landlord's Use, for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* and/or the tenancy agreement, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that the Landlord received the Dispute Resolution Package from the Tenant sometime in May of 2021, via email. She stated that no evidence was served to them by the Tenant. As such, none of the evidence submitted by the Tenant to the Residential Tenancy Branch can be considered as evidence for these proceedings, including the Two Month Notice to End Tenancy for Landlord's Use that was submitted as evidence.

On August 16, 2021 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via email, on August 16, 2021. As this evidence was not served to the Tenant in accordance with the timelines established by the Residential Tenancy Branch Rules of Procedure, it was not accepted as evidence for these proceedings.

### Issue(s) to be Decided

Should the Two Month Notice to End Tenancy for Landlord's Use be set aside?

Is there a need to issue an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)*?

Is the Tenant entitled to recover the fee for filing this Application for Dispute Resolution?

### Background and Evidence

The teleconference hearing was scheduled for 11:00 a.m. on this date. The Landlord was in attendance at the scheduled start time. By the time the teleconference was terminated at 11:12 a.m. the Tenant had not appeared.

The Agent for the Landlord stated that the Tenant vacated the rental unit in early August and that they now have possession of the rental unit.

### Analysis

I find that the Tenant failed to diligently pursue the Application for Dispute Resolution and I therefore dismiss the Application without leave to reapply.

As the Landlord now has possession of the rental unit, I find there is no need to determine if the Landlord has the right to an Order of Possession, pursuant to section 55(1) of the *Act*.

Even if the Landlord did not have possession of the rental unit, I could not have awarded the Landlord an Order of Possession pursuant to section 55(1) of the *Act*, as a copy of the Two Month Notice to End Tenancy for Landlord's Use was not accepted as evidence for these proceedings.

### Conclusion

The Application for Dispute Resolution is dismissed, without leave to reapply.

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: August 17, 2021

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Residential Tenancy Branch