



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FFT

### Introduction and Preliminary Matters

On May 5, 2021, the Tenant 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*.

The Tenant attended the hearing with S.W. attending as her advocate; however, the Landlord did not attend the hearing at any point during the 24-minute teleconference. At the outset of the hearing, I informed the parties that recording of the hearing was prohibited and they were reminded to refrain from doing so. They acknowledged this term. As well, they provided a solemn affirmation.

The Tenant advised that she serve the Landlord the Notice of Hearing package by hand on May 25, 2021. Records indicate that this package was made available to the Tenant for service on May 18, 2021. As well, she was informed that she was required to serve this package to the Landlord by May 21, 2021 pursuant to Rule 3.1 of the Rules of Procedure. Based on this undisputed testimony, I am not satisfied that the Landlord was served with the Notice of Hearing package in accordance with the Rules.

Furthermore, the Tenant advised that she received the Notice by hand on April 17, 2021. Pursuant to Section 49(8) of the *Act*, she was required to dispute this Notice within 15 days of April 17, 2021. She stated that she calculated this 15-day timeframe as 15 business days. As she made her Application outside of this 15-day timeframe, this Application was made late.

As such, based on both of these issues, I dismiss the Tenant's Application without leave

to reapply.

As the Tenant was not successful in this Application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

I dismiss the Tenant's Application 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: September 13, 2021

---

Residential Tenancy Branch