



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNL DRI FFT

### Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated August 21, 2021 (2 Month Notice), to dispute a rent increase and to recover the filing fee.

The tenant, the landlords and legal counsel for the landlords, RH (counsel) attended the teleconference hearing. At the start of the hearing, I introduced myself and the participants. The parties were affirmed, provided with the opportunity to submit documentary evidence prior to this hearing. Counsel was given the opportunity to make submissions and participants were given the opportunity to ask questions. Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

RTB Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to cancel the 2 Month Notice and the filing fee. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the 2 Month Notice and the tenant's application to recover the cost of the filing fee at this proceeding. The tenant's request to dispute a rent increase is **dismissed, with leave to re-apply.**

The tenant stated that they have decided to accept the 2 Month Notice by way of withdrawing their application to dispute the 2 Month Notice as they have found a new rental unit since filing their application on September 9, 2021. As a result, I do not grant the filing fee and will address the order of possession below.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 55(1) of the Act applies and states:

#### **Order of possession for the landlord**

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

**(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

**(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**  
[emphasis added]

Given the above and the fact that I have dismissed the tenant's application without leave to reapply related to the 2 Month Notice only as the tenant withdrew their application at the hearing and given that I find the 2 Month Notice complies with section 52 of the Act, I must grant the landlords an order of possession. As the parties agreed that money has been paid by the tenant for December 2021 and January 2022, I grant the landlords an order of possession effective **January 31, 2022 at 1:00 p.m.**

The parties also confirmed the tenant's written forwarding address, which has been included on the style of cause for ease of reference. In addition, the parties agreed to

meet at the rental unit for the purposes of an outgoing condition inspection at **3:00 p.m. Pacific Time on January 31, 2022.**

### Conclusion

The tenant's application was withdrawn and as a result is dismissed without leave to reapply as the tenant confirmed they are vacating the rental unit.

The only portion dismissed with leave to reapply is the portion severed as noted above relating to the tenant disputing a rent increase.

The tenancy ended November 30, 2021.

The landlords are granted an order of possession effective January 31, 2022 at 1:00 p.m. Should the landlords require enforcement of the order of possession, the landlords may file the order of possession in the Supreme Court. The tenant is cautioned that they can be held liable for all costs related to enforcing the order of possession.

This decision will be emailed to both parties. The order of possession will be emailed to the landlords only for service on the tenant.

The filing fee is not granted as the tenant withdrew their application related to the 2 Month Notice at the hearing.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 21, 2022

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Residential Tenancy Branch