



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, OLC, AAT, MNDC, OT, FF

### Introduction, Preliminary and Procedural Matters-

This telephone conference call hearing was convened as the result of the tenants' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued by the landlord;
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement;
- compensation for a monetary loss or other money owed;
- an order requiring the landlord to allow access to the rental unit for the tenant and their guests;
- other relief under the Act; and
- to recover the cost of the filing fee.

The hearing began as scheduled at 9:30 a.m., Pacific Time, on Friday, January 14, 2022, and the telephone system remained open and was monitored for 10 minutes. During this time, the applicants/tenants did not dial into the telephone conference call hearing; however, the landlord was present and ready to proceed with the hearing.

The landlord was informed that recording of Residential Tenancy Branch (RTB) hearings were prohibited and he affirmed he was not recording the hearing.

In speaking with the landlord, he confirmed that he took ownership of the residential property in July 2021, from the landlord listed on the written tenancy agreement filed by the tenants.

During the hearing, the landlord confirmed he received the tenants' application for dispute resolution by courier service in mid-December, 2021. He also confirmed he requires an order of possession for the rental unit based upon the Notice.

While waiting for the tenants to appear, the landlord was affirmed and gave evidence in support of the landlord's Notice. The Notice, filed in evidence by the tenant, was dated November 21, 2021, with an effective date of January 31, 2020.

The landlord submitted that he served the Notice to the tenant by personal service on November 21, 2021.

The landlord said he issued the Notice as he and his family intend to occupy the rental unit, which was a part of the basement of the home.

### Analysis

Rules 7.3 and 7.4 of the Rules of Procedure provides as follows:

#### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

#### **7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenants at the hearing, I **order** the tenants' application **dismissed, without leave to reapply**.

Upon review, I find the Notice was on the RTB approved form with content meeting the statutory requirements under section 52 the Act. Although the landlord listed an incorrect effective date, the year 2020, the Act provides that the effective date is automatically corrected. In this case, the Notice effective date is corrected to January 31, 2022.

Given the above, pursuant to section 55(1) of the Act, I must grant an order of possession of the rental unit to the landlord.

I therefore grant the landlord an order of possession of the rental unit effective and enforceable at 1:00 p.m. on January 31, 2022, the corrected effective move-out date of the Notice.

Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenants are **cautioned** that costs of such enforcement, **including bailiff fees**, are recoverable from the tenant.

As I did not consider the merits of the tenants' application, I dismiss their request for recovery of the filing fee.

### Conclusion

The tenants' application is dismissed **without leave to reapply**. The landlord has met the statutory requirements to end the tenancy and is granted an order of possession of the rental unit, effective at 1:00 p.m. on January 31, 2022.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 14, 2022

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Residential Tenancy Branch