



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, OLC, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant on October 21, 2021, under the *Residential Tenancy Act* (the *Act*), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the One Month Notice);
- An order for the Landlord to comply with the *Act*, regulations, or tenancy agreement; and
- Recovery of the filing fee.

As set out in the Preliminary Matters section below, the hearing also dealt with a Tenant Request to Amend a Dispute Resolution Application (#RTB-42T) seeking:

- Cancellation of a Two Month Notice to End Tenancy for Landlord's Use of Property (the Two Month Notice).

The hearing was convened by telephone conference call at 11:00 A.M. (Pacific Time) on March 1, 2022, and was attended by the Tenant, the Landlord, and the Landlord's spouse/partner R.M. All testimony provided was affirmed. The Tenant stated that they served the Landlord with the Notice of Dispute Resolution Proceeding (NODRP) in person on October 23, 2021, and the Landlord agreed. Residential Tenancy Branch records indicate that the NODRP was provided to the Tenant by email on October 22, 2021, to be sent or served on the Landlord by October 25, 2021. Based on the above, I am satisfied that the Landlord was personally served with the NODRP, which includes a copy of the Application and the Notice of Hearing, on October 23, 2021, in compliance with sections 59(3) and 89(1)(a) of the *Act*, and rule 3.1 of the Residential Tenancy

Branch Rules of Procedure (the Rules of Procedure). As a result, the hearing proceeded as scheduled.

The parties were advised that pursuant to rule 6.10 of the Rules of Procedure, interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over one another and to hold their questions and responses until it was their opportunity to speak. The Parties were also advised that pursuant to rule 6.11 of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and the parties confirmed that they were not recording the proceedings.

At the request of the parties, copies of the decision and any orders issued in their favour will be emailed to them at the email addresses listed in the Application.

### Preliminary Matters

At the outset of the hearing, the Landlord and R.W. stated that there were actually two notices to end tenancy that were served on and disputed by the Tenant, the One Month Notice, and the Two Month Notice. The Tenant agreed. I advised the parties that the Application and the Dispute Management System shows only the dispute of the One Month Notice, a request for an order for the Landlord to comply with the *Act*, regulations, or tenancy agreement, and recovery of the filing fee.

The Tenant stated that they completed a Tenant Request to Amend a Dispute Resolution Application (Amendment) on November 26, 2021, and after two telephone conversations with the Residential Tenancy Branch, uploaded it to the Dispute Access Site as instructed by a Residential Tenancy Branch staff member. The Tenant stated that a copy was then served on the Landlord shortly thereafter. Although the Landlord could not be sure exactly when it was received, they acknowledged receipt and agreed that it was their understanding that the Application had been amended to include a dispute of the Two Month Notice.

The Tenant Request to Amend a Dispute Resolution Application (#RTB-42T) specifically states that the paper form must be submitted in person at a Service BC Centre that accepts Residential Tenancy Branch forms or the Burnaby Residential Tenancy Branch office, and to not upload the form to the Dispute Access Site. However, Residential Tenancy Branch records show that the Tenant spoke with an Information

Officer at the Residential Tenancy Branch on November 26, 2021, regarding an amendment to the Application. Further to this, the Landlord acknowledged at the hearing that they had been served with the Amendment by the Tenant, that they understood that the Tenant was disputing the Two Month Notice at the hearing, and that they had no concerns with the Amendment. Pursuant to rule 4.2 of the Rules of Procedure, I therefore amended the Application to include a dispute of the Two Month Notice, despite the fact that the Tenant had not filed the Amendment properly with the Residential tenancy Branch.

### Settlement

The opportunity for settlement was discussed with the parties during the hearing. The parties were advised on several occasions during the hearing that there is no obligation to resolve the dispute through settlement, but that pursuant to section 63 of the *Act*, I could assist the parties to reach an agreement, which would be documented in my Decision and supporting order(s).

During the hearing, the parties mutually agreed to settle this matter as follows:

1. The parties agree that the tenancy will end on April 1, 2022, at 6:00 P.M. (Pacific Time).
2. The Tenant agrees to vacate the rental property by 6:00 P.M. on April 1, 2022.
3. The parties agree that no rent will be due for the month of March 2022, and that the Tenant may vacate the rental unit earlier than April 1, 2022, upon less than 30 days notice and without penalty, should they find alternate accommodation prior to April 1, 2022.
4. The parties agree that if the Tenant overholds the rental unit past the above noted date and time, the Tenant will be charged per diem rent for any additional day or portion of an additional day, that the Tenant or their possessions occupy the rental unit.
5. The parties agree that the Tenant will remove their personal possessions through the normal entry/exit for the rental unit, if possible, and that only if the Landlord is satisfied that two large items (a bed and couch) cannot be safely removed this way, will access be granted to an alternate exit route through the Landlord's portion of the property. The parties agree that the Landlord and/or a person of the Landlord's choosing, may be present in the rental unit for the express purpose of observing the Tenant's attempt to remove the above noted items through the normal entry/exit for the rental unit, in order to determine if access to an alternate route through the Landlord's portion of the property is required. The

parties agree to work together, within reason, to arrange a date and time for this to take place, on or before April 1, 2022, at 6:00 P.M.

6. The parties agree that the security deposit will be dealt with at the end of the tenancy in accordance with the *Act*.
7. The parties agree that they are both prohibited under this settlement agreement from filing claims with the Residential Tenancy Branch for matters that arouse during or in relation to the tenancy on or before the date and time of the hearing. The parties retain the right to file claims under the *Act* for matters that arise after the date and time of the hearing.
8. The rights and obligations of the parties under the *Act* continue until the tenancy ends in accordance with this agreement.

This settlement agreement was reached in accordance with section 63 of the *Act*.

### Conclusion

I order the parties to comply with the terms of their mutually settled agreement described above.

In support of the settlement described above, and with the agreement of the parties, I grant the Landlord an Order of Possession, effective 6:00 P.M. (Pacific Time) on April 1, 2022. The Order of Possession should be served on the Tenant as soon as possible. Should the Tenant fail to comply with the Order of Possession, it may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: March 2, 2022

---

Residential Tenancy Branch