



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

The Tenant applies to cancel a Two-Month Notice to End Tenancy signed November 30, 2021 (the “Two-Month Notice”) pursuant to s. 49 of the *Residential Tenancy Act* (the “Act”).

C.F. appeared as Tenant and was joined by her support worker, R.L.. J.G. appeared as witness for the Tenant at the outset of the hearing but was dismissed for the hearing until called upon to provide evidence. J.G. was never called as a witness. The Landlord did not attend, nor did someone attend on their behalf.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Landlord did not attend, the hearing was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing.

The Tenant advises that she served the Landlord with the Notice of Dispute Resolution and her evidence by way of registered mail sent on December 10, 2021. The Tenant provided a tracking number for the registered mail package and confirm it was sent to the Landlord’s mailing address as stated in the Two-Month Notice. The Tenant further advised that the registered mail package was returned to her.

Policy Guideline #12 states the following with respect to service via registered mail:

Where a document is served by Registered Mail or Express Post, with signature option, the refusal of the party to accept or pick up the item, does not override the deeming provision. Where the Registered Mail or Express Post, with signature option, is refused or deliberately not picked up, receipt continues to be deemed to have occurred on the fifth day after mailing.

I accept the uncontroverted evidence of the Tenant that she sent her application materials to the Landlord by way of registered mail on December 10, 2021. The Tenant is entitled to serve her application materials by way of registered mail as per s. 89(1) of the *Act*. Policy Guideline #12 is clear that failing to pick up registered mail sent to the correct address does not impact the deemed service provisions of the *Act*.

Accordingly, I find that the Tenant served her application materials in accordance with s. 89 of the *Act* by sending the Landlord a registered mail package on December 10, 2021. Pursuant to s. 90 of the *Act*, I deem that the Landlord received the Tenant's application materials on December 15, 2021.

#### Landlord's Failure to Discharge their Evidentiary Burden

The Tenant acknowledges receiving the Two-Month Notice by way of text message sent on November 29, 2021. The Tenant confirmed her rental unit, that she took possession of the rental unit on January 1, 2019 and that she pays rent of \$500.00 on the first day of each month. The Tenant further confirmed paying a security deposit of \$250.00 to the Landlord.

As made clear by Rule 6.6 of the Rules of Procedure, it is the Landlord's evidentiary burden to satisfy me that the Two-Month Notice was properly issued. This is particularly so given that the notice was issued under s. 49, which requires the Landlord to demonstrate that the Two-Month Notice was issued in good faith. After waiting on the teleconference line for 13 minutes, the hearing was concluded without participation of the Landlord.

Due to the Landlord's failure to attend the hearing, I find that they failed to discharge their evidentiary burden to satisfy me that the Two-Month Notice was properly issued and that it was issued in good faith. Accordingly, I grant the Tenant her application and cancel the Two-Month Notice. The tenancy shall continue until ended in accordance with the *Act*.

Conclusion

The Landlord failed attend the hearing and failed to prove that the Two-Month Notice was issued in compliance with the *Act*. I hereby cancel the Two-Month Notice and it is of no force or effect. The tenancy shall continue until it is ended in accordance with the *Act*.

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 22, 2022

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Residential Tenancy Branch