



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes:** DRI-ARI-C, LRE, CNL, OLC, LAT, FFT

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlords' 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), pursuant to section 49;;
- a determination regarding their dispute of an additional rent increase by the landlords pursuant to section 43
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 55;
- an order to allow the tenants to change the locks to the rental unit pursuant to section 70;
- an order to suspend or set conditions on the landlords' right to enter the rental unit pursuant to section 63; and
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

The landlords confirmed receipt of the tenants' application for dispute resolution hearing package ("Application"). In accordance with section 89 of the *Act*, I find the landlords duly served with the tenants' Application. Both parties confirmed receipt of each other's evidentiary materials, which were duly served in accordance with section 88 of the *Act*.

The tenants acknowledged receipt of the 1 Month Notice to End Tenancy for Cause dated March 31, 2021. In accordance with sections 88 and 90 of the Act, I find the tenants deemed served with the 1 Month Notice on April 3, 2021, 3 days after posting.

### **Preliminary Issue – Validity of 2 Month Notice**

The tenants confirmed that they were served with a 2 Month Notice on January 29, 2022. Both parties submitted a copy of the 2 Month Notice, which is not dated.

Section 52 of the *Act* requires that the Notice complies with the *Act*, specifically, that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) state the grounds for ending the tenancy, and (e) be in the approved form.

I find that the 2 Month Notice is not dated as is required by section 52(a) of the *Act*. As the 2 Month Notice does not comply with the *Act*, I find the 1 Month Notice to be invalid. I, therefore, cancel the 2 Month Notice that was served on January 29, 2022. This Notice is of no force or effect. This tenancy is to continue until ended in accordance with the *Act*.

### **Preliminary Issue – Dispute of Rent Increase**

Both parties confirmed that the tenants have not been formally served with a Notice of Rent Increase.

Sections 40 to 43 of the *Act* speaks to rent increases, which includes the landlord's obligation to serve the tenants with a Notice of Rent Increase in the approved form.

As the tenants have not been formally served with a Notice of Rent Increase in the approved form, I find the tenants' application to be premature, and accordingly, this portion of the tenants' application is cancelled

### **Other issues:**

The other issues were canvassed with the tenants during the hearing. The tenants testified that there are no other outstanding issues that need to be addressed at this time. Although the tenants did apply for an order to change the locks and restrict the landlords' access to the rental unit, the tenants confirmed that they had given

permission for the landlords to enter the rental unit despite the fact that less than 24 hour's notice was provided.

Section 29 of the *Act* prohibits the landlord's right to enter the rental suite except with proper notice or the tenants' permission. The landlord's right to enter a rental unit is restricted, and the landlord must not enter unless:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
  - (i) the purpose for entering, which must be reasonable;
  - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

As the tenants confirmed that they had given permission for the landlords to enter without prior written notice as required by the *Act*, and as no further orders are requested at this time, the remaining portions of the tenants' application are dismissed with leave to reapply.

The tenants requested to recover the filing fee. The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As no findings were made on the merits of the claims in the tenants' application, the tenants must bear the cost of the filing fee.

**Conclusion**

The 2 Month Notice that was served on January 29, 2022 is cancelled. This Notice is of no force or effect. This tenancy is to continue until ended in accordance with the *Act*.

The rest of the tenants' application is dismissed with leave to reapply, with the exception of the filing fee, which is dismissed 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: April 22, 2022

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Residential Tenancy Branch