



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

1<sup>st</sup> application: CNL  
2<sup>nd</sup> application: CNC OLC

### Introduction

This hearing dealt with two Applications for Dispute Resolution (applications) by the tenant seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated March 27, 2022 (2 Month Notice), for an order directing the landlord to comply with the Act, regulation or tenancy agreement and to cancel a 1 Month Notice to End Tenancy for Cause dated June 1, 2022 (1 Month Notice). Both filing fees were waived.

The tenant was provided with a copy of two Notices of a Dispute Resolution Proceeding the first dated April 13, 2022 (Notice of Hearing 1) and the second dated June 21, 2022 (Notice of Hearing 2) when they made their applications. The tenant, however, did not attend the hearing set for this date, Monday, July 25, 2022 at 11:00 a.m. Pacific Time. The phone line remained open for 11 minutes and was monitored throughout this time. The only person to call into the hearing was landlord, GD (landlord).

### Preliminary and Procedural Matter

The landlord confirmed their email addresses at the outset of the hearing and stated that they understood that the Decision and any applicable orders would be emailed to them. The Decision will be email to the applicant tenant also.

### Issues to be Decided

- Should the tenants' application be dismissed for failing to attend the hearing and an order of possession be granted to the landlord?

### Background and Evidence

Regarding the 2 Month Notice, it is dated March 27, 2022 and has an effective vacancy date of June 1, 2022.

Regarding the 1 Month Notice, it is dated June 1, 2022 and has an effective vacancy date of July 31, 2022.

The landlord testified that the tenant continues to occupy the rental unit and has not paid any money for use and occupancy for July 2022. The landlord is seeking an order of possession as soon as possible. The landlord testified that they plan to occupy the rental unit as stated on the 2 Month Notice and that the 2 Month Notice was issued in good faith.

### Analysis

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

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 apply and state:

#### **7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

#### **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.

Given the above and following the 10-minute waiting period, both applications of the tenant were **dismissed without leave to reapply**. This decision does not extend any applicable time limits under the Act.

The filing fee were already waived for both applications.

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 that the matter involved a 2 Month Notice that had an effective vacancy date listed before the effective vacancy date listed on the 1 Month Notice and given that I find the 2 Month Notice complies with section 52 of the Act, I must grant the landlord an order of possession. I grant the landlord an order of possession **effective two (2) days after service on the tenant.**

I find the tenancy ended June 1, 2022, which was the effective vacancy date listed on the 2 Month Notice.

I find the landlord confirmed they intended to use the rental unit for the stated purpose and confirmed the 2 Month Notice was issued in good faith.

### Conclusion

The tenant's application fails.

The tenancy ended June 1, 2022.

The landlord is granted an order of possession effective two (2) days after service on the tenant.

The tenant is cautioned that they could be held liable for all costs related to enforcing the order of possession.

This decision will be emailed to both parties at the email addresses confirmed by the landlord and the email address for the tenant provided in their application.

This decision is final and binding on the parties, except as 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: July 25, 2022