



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

For the landlord: OPL, FF  
For the tenants: CNL, CNC, OLC, LRE, PSF, FF

### **Introduction**

This hearing was convened as the result of the cross applications (application) of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (Act).

The landlord applied for the following:

- an order of possession of the rental unit pursuant to a Two Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice) issued to the tenants; and
- recovery of the cost of the filing fee.

The tenants applied for the following:

- an order cancelling a 2 Month Notice issued by the landlord;
- an order cancelling a One Month Notice to End Tenancy for Cause (1 Month Notice) issued by the landlord;
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement;
- an order suspending or setting conditions on the landlord's right to enter the rental unit;
- an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act; and
- recovery of the cost of the filing fee.

The landlord, the landlord's spouse/agent, and the tenants attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me. No parties raised an issue with regard to service of the other's evidence or application.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

#### Preliminary and Procedural Matters-

Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenants indicated several matters of dispute on the application, the most urgent of which is the application to cancel the 2 Month Notice and 1 Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to cancel the 2 Month Notice and the 1 Month Notice. I will also consider the landlord's application for an order of possession of the rental unit. The balance of the tenants' application is dismissed, with leave to reapply.

#### Issue(s) to be Decided

Is the landlord entitled an order of possession of the rental unit per the 2 Month Notice and recovery of the cost of the filing fee?

Are the tenants entitled to cancellation of either or both of the landlord's Notices to end the tenancy and recovery of the cost of the filing fee?

### Background and Evidence

I heard testimony and reviewed evidence that the tenants entered into a written tenancy agreement with their former landlord, RR, for a month-to-month tenancy start date of May 1, 2021 with a monthly rent of \$1,200.

The current landlord purchased the property on February 9, 2022, and took possession on February 15, 2022.

The residential property has multiple homes and/or structures, and the landlord confirmed that at the time they purchased the property, there were 4 active tenancies. The landlord submitted that all tenancies apart from the tenancy here have ended. The landlord confirmed giving multiple 2 Month Notices to the other tenants.

The evidence shows that the landlord issued the tenants a 2 Month Notice to end tenancy on February 15, 2022, with an effective date of May 1, 2022. Filed in evidence by the tenants was a copy of the unsigned 2 Month Notice.

The evidence was that the landlord did not sign the 2 Month Notice, and in their written evidence dated April 28, 2022, the landlord agreed that the 2 Month Notice was not signed. The landlord submitted that they tried to communicate with the tenants about signing the 2 Month Notice on February 16<sup>th</sup>, but the tenants would not respond. The landlord wrote that they would serve a “new RTB 32” (*2 Month Notice form*) on or before the end of April 2022.

The evidence shows that the landlords served the tenants a modified version of the original 2 Month Notice on April 30, 2021, with an effective date of July 1, 2022. The modified version had the original issued and effective dates, with the new dates written on the side.

The evidence showed the landlord served the tenants a 1 Month Notice on April 1, 2022, with an effective date of May 1, 2022. The cause listed on this Notice claimed the tenants or a person permitted on the property by the tenants have engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the landlord. The tenants filed a copy of the 1 Month Notice.

In the Details of Cause(s) section of the 1 Month Notice, the landlord wrote “RCMP” with two different dates and three different times. Also was the notation, “call regarding false claims of excessive noise, invalid/unreasonable reports”.

The landlord’s application seeking enforcement of the 2 Month Notice was filed on April 4, 2022, and the tenants’ application seeking cancellation of the 1 Month Notice and 2 Month Notice, along with other issues, was filed April 6, 2022.

The landlord said at the hearing that after a call to the RCMP, there was no proof of illegal theft or damage. The landlord indicated they wished to proceed on their 2 Month Notice, the issue listed in their application.

### Analysis

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

#### 1 Month Notice –

When a tenant disputes a Notice to end a tenancy on time, which the tenants did in this matter as to the 1 Month Notice, the onus of proof is on the landlord to prove that the Notice is valid and should be upheld. If the landlord fails to prove the Notice is valid, it will be cancelled. The burden of proof is based on the balance of probabilities, meaning the events as described by one party are more likely than not.

I have reviewed the Notice and I find the landlord provided insufficient Details of Causes as I find dates listed to be vague and unsupported. I therefore find the Notice insufficient for the tenants to properly rebut the Notice.

The landlord is instructed on the Details of Causes to describe what, where, and who caused the issue and included dates/times, names, etc. The landlord, on the Notice form, is informed that this evidence is required, or the Notice may be cancelled.

In this case, there were no instances or details of alleged illegal activity.

For these reasons, I find the 1 Month Notice does not comply with section 52(d) and (e) of the Act and is invalid as it does not set out the specific allegations of the cause listed by the landlord on the Notice. Therefore, I find the Notice is not valid as it is missing necessary and required information. The Act requires that notices to end tenancy issued

by the landlord be in the approved form due to the fact that the approved forms contain all of the required information a tenant would need to dispute the Notice, if necessary.

As a result, I **ORDER** that the 1 Month Notice dated April 1, 2022, is cancelled, and is of no force or effect.

#### 2 Month Notice –

On April 4, 2022, the landlord filed an application to enforce the 2 Month Notice, issued to the tenants on February 15, 2022.

On April 6, 2022, the tenants filed an application to dispute the 2 Month Notice issued by the landlord on February 15, 2022.

While the copy of the 2 Month Notice filed in evidence by the landlord shows the landlord's signature, they confirmed not signing the document originally served to the tenants, as shown in the tenants' evidence.

As the 2 Month Notice served to the tenants was not signed, I find it does not comply with section 52(a), which requires notices to end a tenancy be signed and dated. For this reason, I find the 2 Month Notice dated February 15, 2022, is not valid as it is missing necessary and required information.

As a result, I **ORDER** that the 2 Month Notice dated February 15, 2022, is cancelled, and is of no force or effect.

#### Second 2 Month Notice –

The undisputed evidence is that the landlord served the tenants an altered 2 Month Notice on April 30, 2022, for an effective date of July 1, 2022. However, that 2 Month Notice is not before me to consider in these disputes as neither the landlord nor the tenants amended their application to include a request to enforce or cancel the 2 Month Notice dated April 30, 2022.

I have reviewed the notes on the tenants' file recorded by staff at the Residential Tenancy Branch (RTB). These notes are a record of all activity taken on any file for dispute resolution and of each telephone call from either participant. Staff record the nature and content of each telephone call.

In this case, the notes recorded by RTB staff on the tenants' file listed that the tenants called into the RTB on May 4, 2022, informed the staff they received another 2 Month Notice and were sent an email explaining the amendment process.

**Landlord's application –**

As I have ordered the 2 Month Notice issued on February 15, 2022, is cancelled, I dismiss the landlord's application for an order of possession based upon that 2 Month Notice and recovery of the cost of the filing fee, without leave to reapply.

The landlord is at liberty to apply for an order of possession citing the 2 Month Notice dated April 30, 2022.

**Tenants' application –**

As I have ordered the landlord's 1 Month Notice dated April 1, 2022, and the 2 Month Notice dated February 15, 2022, cancelled, I order that the tenancy continues until it may otherwise legally end under the Act.

As the tenants' application was successful, I allow them recovery of their filing fee of \$100. I authorize the tenants to deduct \$100 from their next, or a future month's rent in satisfaction of their monetary award. The tenants should advise the landlord when they are making this deduction.

**Conclusion**

The landlord's application is dismissed, without leave to reapply, as I have ordered the 2 Month Notice dated February 15, 2022, cancelled.

The tenants' application seeking cancellation of the 1 Month Notice dated April 1, 2022, and the 2 Month Notice dated February 15, 2022, is successful as these two Notices have been ordered cancelled.

The tenants have been awarded recovery of their filing fee of \$100, to be redeemed as noted above.

The balance of the tenants' application is dismissed, with 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: July 25, 2022

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Residential Tenancy Branch