



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

RTB-136

## DECISION

Dispute Codes CNL-MT, MNDCT, FFT

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- cancellation of the Two Month Notice to End Tenancy for Landlord's Use (the Notice), issued pursuant to section 49;
- an extension of the timeline for disputing the Notice, pursuant to section 66;
- a monetary order for compensation for damage or loss under the Act, Residential Tenancy Regulation or tenancy agreement, pursuant to section 67; and
- an authorization to recover the filing fee for this application, under section 72.

Both parties attended the hearing. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing the attending parties affirmed they understand the parties are not allowed to record this hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5,000.00."

The tenant did not serve the notice of hearing. The landlord received an email from the Residential Tenancy Branch and learned about this application.

The tenant moved out on May 01, 2022 and did not serve the forwarding address.

The application for the cancellation of the Notice is moot since the tenancy has ended.

Section 62(4)(b) of the Act states an application should be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss the application for the cancellation of the Notice.

**Residential Tenancy Branch**

#RTB-136 (2014/12)



Rule of Procedure 3.1 states:

3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package

**The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:**

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].

(emphasis added)

Based on the foregoing, I dismiss the tenant's application for a monetary order with leave to reapply. Leave to reapply is not an extension of timeline to apply.

As the tenant was not successful, the tenant is not entitled to recover the filing fee.

The tenant's forwarding address is recorded on the cover page of this decision. I deem the landlord sufficiently served the tenant's forwarding address 3 calendar days after the date of this decision, per section 71(2)(c) of the Act.

Both parties should address the security deposit in accordance with section 38 of the Act.

### Conclusion

I dismiss the tenant's application for a monetary order 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*.

Dated: August 22, 2022

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Residential Tenancy Branch