



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, OLC, FF

### Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied on April 4, 2022 for an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice) issued by the landlord, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, and to recover the cost of the filing fee.

The parties listed on the cover page of this Decision attended the hearing and were affirmed.

As a preliminary matter, the tenant testified that they vacated the rental unit on August 4, 2022, the day prior to the hearing. The tenant confirmed vacating as they could no longer afford any rent after their husband died on June 1, 2022.

Additionally, another party attended the hearing, RV. RV submitted they lived in the basement level of the home since 2008 and paid monthly rent to the tenant, who lived in the upper unit. RV said they only learned in 2021 that their landlord was not the owner, but was a tenant of the landlord in this matter. RV did not know that the tenant had plans to vacate the rental unit and has continued paying her monthly rent to the tenant.

I heard evidence that when the tenant and their husband moved into the residential property in 2008, the landlord informed them that, if they wanted, they could rent out any portion of the rental unit, which is a whole house. The tenant submitted that they initially did not have anyone renting from them, but a few months later, rented the basement level to RV.

The landlord submitted that the tenant has not paid any rent since June 2022, and the tenant agreed, saying that when their husband died on June 1, 2022, their income died with him. The undisputed evidence is that the tenant, however, still collected the monthly rent from RV and did not pay even this amount to the landlord and remained in the rental unit until August 4, 2022.

### Analysis and Conclusion

As I informed the tenant, I cannot proceed on her application for dispute resolution, as the tenancy ended on the date they vacated the rental unit on August 4, 2022, as provided in section 44(1)(d) of the Act. As a result, I find the tenant's request for an order cancelling the 2 Month Notice dated March 22, 2022, is now moot.

As to the tenant's request to require the landlord to comply with the Act, I also find this issue is moot as this request pertains to issues for an ongoing tenancy and the tenancy has ended.

If the tenant believed they should not be required to vacate the rental unit or pay a rent increase that failed to comply with the Act, they ought to have waited for the hearing so that I could decide these matters. When the tenant vacated the rental unit, their application became moot, as I cannot now decide whether or not the tenancy shall continue.

Given the above, I **dismiss** the tenant's application, without leave to reapply.

As I did not consider the merits of the tenant's application or the 2 Month Notice, I **dismiss** the tenant's request for recovery of the filing fee, without leave to reapply.

In reviewing the Notice, I find it was on the Residential Tenancy Branch (RTB) approved form with content meeting the statutory requirements under section 52 the Act.

Although the tenant vacated the rental unit, the landlord had not confirmed this to be true. Additionally, RV, who I find is a subtenant of the tenant, remains in the rental unit. Once the tenancy ends for the tenant, the tenancy ends for any occupant or subtenant.

I find there was no evidence that RV had any legal standing in these matters and must vacate the rental unit. The landlord reluctantly agreed to extend a courtesy to RV to stay until August 31, 2022, given the circumstances as noted above.

As a result, I find that the landlord is entitled to, and I **grant an order of possession for the rental unit effective at 1:00 pm on August 31, 2022, pursuant to section 55(1)(b) of 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in 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: August 05, 2022

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Residential Tenancy Branch