



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

OLC, CNL-MT, MNDCT, FFT

### Introduction

On May 09, 2022 the Tenants filed an Application for Dispute Resolution in which they applied to cancel a Two Month Notice to End Tenancy for Landlord's Use, for more time to cancel the Two Month Notice to End Tenancy for Landlord's Use, for an Order requiring the Landlord to comply with the tenancy agreement and/or the *Residential Tenancy Act (Act)* and to recover the filing fee from the Landlord for the cost of filing this Application for Dispute Resolution.

At the hearing the female Tenant stated that they filed an Amendment to their Dispute Resolution Package on May 28, 2022, in which they withdrew the application to cancel the Two Month Notice to End Tenancy for Landlord's Use. At the hearing the female Tenant confirmed that they have vacated the rental unit and they no longer wish to dispute the Two Month Notice to End Tenancy for Landlord's Use.

As the rental unit has been vacated, I find it reasonable to allow the Application for Dispute Resolution to be amended by withdrawing the application to cancel a Two Month Notice to End Tenancy for Landlord's Use and, by extension, the application for more time to cancel the Two Month Notice to End Tenancy for Landlord's Use.

The female Tenant stated that the Tenants wish to pursue their claim to recover the fee for filing this Application for Dispute Resolution.

The female Tenant stated that on May 19, 2022 the Dispute Resolution Package was sent to the Landlord, via registered mail. The Landlord acknowledged receipt of these documents.

On May 09, 2022 the Tenants submitted a copy of the Two Month Notice to End Tenancy for Landlord's Use. The female Tenant stated that this document was also served to the Landlord on May 19, 2022. The Landlord stated that this document was not provided with the Dispute Resolution Package. The Landlord stated, however, that she has a copy of the Two Month Notice to End Tenancy for Landlord's Use and that she is willing to have it considered at these proceedings. As such, that document was accepted as evidence for these proceedings.

#### Preliminary Matter

On May 28, 2022 the Tenants submitted an Amendment to their Application for Dispute Resolution, in which they withdrew the application to cancel the Two Month Notice to End Tenancy for Landlord's Use and added an application for a monetary Order.

The female Tenant stated that the Amendment was delivered to the Landlord's residential mailbox on May 31, 2022. The Landlord denied receiving the Amendment.

When a tenant files an Amendment to an Application for Dispute Resolution, the tenant bears the burden of proving it was served to the Landlord in accordance with the *Residential Tenancy Act (Act)*. As the Tenant submitted insufficient evidence to corroborate the female Tenant's testimony that the aforementioned document was served to the Landlord or to refute the Landlord's testimony it was not received, I find that the Tenants have failed to meet the burden that the Amendment was served to the Landlord.

As the Tenants have failed to meet the burden that the Amendment was served to the Landlord, I am unable to consider the application for a monetary Order at these proceedings. The application for a monetary Order is dismissed, with leave to reapply. The Tenants retain the right to file another Application for Dispute Resolution in which they seek monetary compensation.

#### Issue(s) to be Decided

Are the Tenants entitled to compensation for filing this Application for Dispute Resolution?

### Background and Evidence

The Landlord and the Tenants agree that:

- This tenancy began on January 01, 2019.
- On April 10, 2022 the Landlord personally served the female Tenant with a Two Month Notice to End Tenancy;
- The Notice declared that the tenancy was ending because it would be occupied by the Landlord's child and mother or father; and
- The Notice declared that the Tenants must vacate the rental unit by July 01, 2022.

The female Tenant stated that sometime near the end of May of 2022 the Tenants told the Landlord they would be vacating the rental unit, although they did not inform her of the date of their departure.

The male Tenant stated that sometime near the middle of June of 2022 the Tenants told the Landlord they would be vacating the rental unit, although they did not inform her of the date of their departure.

The Landlord stated that on May 14, 2022 she was advised the Tenants would be vacating the unit at the end of July of 2022.

The female Tenant stated that the rental unit was vacated on July 01, 2022. The Landlord stated that it was vacated on June 26, 2022.

### Analysis

On the basis of the undisputed evidence, I find that although the Tenants initially disputed the Two Month Notice to End Tenancy for Landlord's Use, they subsequently abandoned that dispute and vacate the unit in accordance with the effective date of the Two Month Notice to End Tenancy for Landlord's Use.

I find that it is not necessary for me to determine whether the Landlord had grounds to serve the Two Month Notice to End Tenancy for Landlord's Use, as the Tenants abandoned their application to cancel the Notice.

As the Tenants abandoned their application to cancel the Two Month Notice to End Tenancy for Landlord's Use, I find they are not entitled to compensation for filing the

Application for Dispute Resolution. I therefore dismiss their application to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The application to recover the cost of filing this Application for Dispute Resolution 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 *Act*.

Dated: September 15, 2022

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Residential Tenancy Branch