



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNL OLC FFT

### Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated July 26, 2022, which is just a handwritten letter (2 Month Notice), for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and the filing fee.

The tenant, the landlord and the parents of the landlord, HC and WC attended the teleconference hearing. At the start of the hearing, I introduced myself and the participants were given an opportunity to ask questions. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony evidence and to make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The landlord confirmed receiving the tenant's documentary evidence and that they had the opportunity to review that evidence. The landlord also confirmed that they did not serve the tenant with their documentary evidence, which has been excluded in full as it was not served in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules).

### Preliminary and Procedural Matter

The parties confirmed their email address at the outset of the hearing and stated that they understood that the decision would be emailed to them.

### Issues to be Decided

- Should the 2 Month Notice be cancelled?

- If yes, is the tenant entitled to the recovery of the cost of her filing fee under the Act?

### Background and Evidence

At the outset of the hearing, the tenant confirmed that they vacated the rental unit on September 30, 2022. As a result, the parties were advised that the proceeding was no longer necessary as the reason for the hearing was to determine if the tenancy should continue. As the tenancy ended as soon as the tenant vacated the rental unit, I find that it is not necessary to continue with the remainder of the hearing, which I will discuss further below.

### Analysis

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

I dismiss the tenant's application to cancel the 2 Month Notice as the tenant has already vacated the rental unit as of September 30, 2022, which was after filing their application. The application is dismissed without leave to reapply.

I do not grant the filing fee as a result. As the landlord has possession back of the rental unit, I do not grant an order of possession.

### Conclusion

The application is dismissed without leave to reapply. The filing fee is not granted. This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless 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: January 25, 2023

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Residential Tenancy Branch