



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL-MT

### Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenants seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated August 23, 2022 (2 Month Notice) and for more time to make an application to dispute the 2 Month Notice. The filing fee was waived for this application.

The tenants were provided with a copy of the Notice of a Dispute Resolution Proceeding dated September 22, 2022 (Notice of Hearing) when they made their application. The tenants, however, did not attend the hearing set for this date, January 27, 2023 at 11:00AM Pacific Time. The phone line remained open for 12 minutes and was monitored throughout this time. The only persons to call into the hearing was the landlord and the agent of the landlord.

### Preliminary and Procedural Matter

The landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The decision will also be emailed to the tenants at the email address provided in their application.

### Issues to be Decided

- Should the tenants' application be dismissed for failing to attend the dispute resolution hearing?
- If yes, is the landlord entitled to an order of possession under the Act?

### Background and Evidence

The tenants submitted a copy of the 2 Month Notice, which is dated August 23, 2022 and has an effective vacancy date of October 31, 2022, which has passed. The landlord confirmed that the tenant, RS, was served by personal service, which is confirmed in the tenants' application as August 23, 2022.

The tenants filed their application to dispute the 2 Month Notice on September 10, 2022, which is within the 15-day timeline provided for under the Act. As a result, I find the tenants did not require an extension of time to dispute the 2 Month Notice.

The landlord testified that they intend to move into the cabins as indicated on the 2 Month Notice. The landlord also corrected the address of the rental unit from listing Blind Bay as the city to Sorrento, which I have amended pursuant to section 64(3)(c) of the Act.

The landlord requested an order of possession effective as soon as possible and the tenants have not paid rent for January 2023.

### Analysis

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

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 apply and state:

#### **7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

#### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Given the above and following the 10-minute waiting period, the application of the tenants was **dismissed without leave to reapply**. This decision does not extend any applicable time limits under the Act.

Section 55(1) of the Act applies and states:

**Order of possession for the landlord**

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must grant to the landlord an order of possession of the rental unit if**

- (a) **the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and**
- (b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[emphasis added]

I have reviewed the 2 Month Notice and find that it complies with section 52 of the Act. I also accept the undisputed testimony of the landlord that they intend to reside in the cabins as listed on the 2 Month Notice.

As the tenants failed to attend the dispute resolution hearing, and given that I find the 2 Month Notice is both valid and complies with section 52 of the Act, I grant the landlord an order of possession **effective two (2) days after service on the landlord.**

I find the tenancy ended on October 31, 2022, which was the effective vacancy date listed on the 2 Month Notice.

Should the tenants fail to vacate the rental unit as indicated on the order of possession, the tenants should be aware that they could be held liable for all costs related to enforcing the order of possession. If required, the landlord may enforce the order of possession by making an application for a Writ of Possession to the Supreme Court of British Columbia.

This decision will be emailed to both parties at the email addresses confirmed by the landlord and the email address for tenant RS confirmed in the tenants' application.

The order of possession will be emailed to the landlord only, which must be served on the tenants.

The filing fee was already waived and is therefore not granted.

This decision is final and binding on the parties, except as 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 27, 2023

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Residential Tenancy Branch