



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      **MNETC**

### Introduction

This hearing dealt with the Tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for an Order for compensation from the Landlord related to a Notice to End Tenancy for Landlord's Use of Property pursuant to Section 51 of the Act.

The hearing was conducted via teleconference. The Landlord and one Tenant attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Tenant testified that he sent the Notice of Dispute Resolution Proceeding package for this hearing (the "NoDRP package") to the Landlord's property manager by regular mail. Pursuant to Section 89 of the Act, an application for dispute resolution, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy **by registered mail** to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents];
- (f) by any other means of service provided for in the regulations.

As the Tenant did not serve the Landlord according to one of the ways specified in Section 89 of the Act, I dismiss the Tenants' claim with leave to re-apply.

### Issue to be Decided

Are the Tenants entitled to an Order for compensation from the Landlord related to a Notice to End Tenancy for Landlord's Use of Property?

### Background and Evidence

I have reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on May 1, 2020. A second fixed term began on May 1, 2021. The fixed term ended on April 30, 2022, then the tenancy continued on a month-to-month basis. Monthly rent was \$3,000.00 payable on the first day of each month. A security deposit of \$1,500.00 and a pet damage deposit of \$1,500.00 were collected at the start of the tenancy and have both been returned to the Tenants.

The Tenants neither uploaded a complete copy of their tenancy agreement, nor, most importantly, a complete copy the Two Month Notice that ended this tenancy.

The Tenants are seeking 12 month's rent compensation further to the tenancy ending by a Two Month Notice and the Landlord not accomplishing the stated purpose within a reasonable period after the effective date of the notice.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies for compensation after receiving a Two Month Notice, the onus is on the landlord to prove,

on a balance of probabilities, that the stated purpose was accomplished at the end of the tenancy.

Due to improper service, and the omission of required documents, I dismiss the Tenants' claim with leave to re-apply.

For the benefit of the Tenants, they may wish to discuss with an Information Officer at the RTB the options available to them to properly serve legal documents for this matter and the necessary information needed for this type of claim. An Information Officer can be reached at:

5021 Kingsway  
Burnaby, BC  
Phone: 604-660-1020 (Lower Mainland)  
250-387-1602 (Victoria)  
1-800-665-8779 (toll free)  
Website: [www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies](http://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies)

### Conclusion

The Tenants' claim is dismissed with leave to re-apply.

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: February 28, 2023

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Residential Tenancy Branch