



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## DECISION

**Dispute Codes**      FFT, CNL

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), pursuant to section 49; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord attended the hearing with their daughter, AP, who represented the landlord in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. Both parties confirmed that they understood.

Both parties confirmed that the tenant was served with two, 2 Month Notices to End Tenancy. The first 2 Month Notice was not properly dated by the landlord. The landlord served the tenant with a second 2 Month Notice on November 30, 2022, correcting that error.

After discussing the matter with both parties, the landlord confirmed that they wanted to cancel the first 2 Month Notice, and wanted an Order of Possession pursuant to the second 2 Month Notice dated November 30, 2022. By consent of both parties, the first 2 Month Notice served on the tenant is cancelled and is of no force effect. This hearing proceeded to deal with the second 2 Month Notice dated November 30, 2022.

### **Analysis**

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end at 1:00 pm on April 30, 2023, by which date the tenant and any other occupants will have vacated the rental property.
2. Both parties agreed that the tenant may withhold the last month's rent, specifically the April 2023 rent, which satisfied the landlord's requirement under section 51(1) of the *Act* to compensate the tenant the equivalent of one month's rent.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

### **Conclusion**

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue an Order of Possession to the landlord, which is to take effect by 1:00 p.m. on April 30, 2023. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant does not abide by condition #1 of the above settlement. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As this matter was settled, and I was not required to make a decision on the merits of this case, the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

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: March 23, 2023

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Residential Tenancy Branch