



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNL, FFT**

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on January 15, 2023 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") dated December 31, 2022; and
- an order granting the return of the filing fee.

The hearing was scheduled for 9:30 A.M. on May 11, 2023 as a teleconference hearing. The Tenant, and the Tenant's advocate P.L. attended the hearing at the appointed date and time. No one appeared for the Landlord. The conference call line remained open and was monitored for 12 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Tenant, their Advocate, and I were the only persons who had called into this teleconference.

The Tenant testified that she served her Application and documentary evidence package to the Landlord by registered mail on January 23, 2023. The Tenant provided the tracking information during the hearing. Pursuant to section 89 and 90 of the *Act*, I find the above documents are deemed served to the Landlord five days later.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*. In this case, the onus is on the Landlord to demonstrate the reasons they are seeking to end the tenancy. As no one attended the hearing for the Landlord in support

of the Two Month Notice, I cancel the Two Month Notice dated December 31, 2022. I order the tenancy continue until it is ended in accordance with the Act.

As the Tenant was successful with their Application, I find that the Tenant is entitled to the return of the \$100.00 filling fee paid to make the Application. I order that the Tenant deduct \$100.00 from one (1) future rent payment.

### Conclusion

The Tenant's application is successful. The Two Month Notice issued by the Landlord dated December 31, 2022 is cancelled. The tenancy will continue until ended in accordance with the Act.

The Tenant is entitled to deduct \$100.00 from one (1) future rent payment for recovery of the filing fee.

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: May 11, 2023

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Residential Tenancy Branch