



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

TT: CNL

LL: OPR, OPL, MNRL-S, MNDCL, FFL

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Tenant’s Application for Dispute Resolution was made on February 3, 2023 (the “Tenant’s Application”). The Tenant applied for the following relief, pursuant to the *Act*:

- an order cancelling a Two Month Notice to End Tenancy for Landlord’s Use of the Property dated January 13, 2023 (the “Two Month Notice”).

The Landlords’ Application for Dispute Resolution was made on February 15, 2023 (the “Landlords’ Application”). The Landlords applied for the following relief, pursuant to the *Act*:

- a monetary order for unpaid rent;
- an order of possession for unpaid rent;
- an order of possession for Landlord’s Use of the Property;
- a monetary order for damage compensation or loss;
- an order to retain the Tenant’s deposit(s); and
- an order granting recovery of the filing fee.

The Tenant and the Landlords attended the hearing at the appointed date and time. At the start of the hearing, the Landlord confirmed receipt of the Tenant’s Notice of Hearing. The Landlords stated that they posted their notice of hearing to the Tenant’s door sometime in April 2023. The Tenant stated that they only received the Landlord’s

Notice of Hearing package two weeks ago, which has left them with insufficient time to prepare for the hearing.

### Preliminary Matters

According to the Rule of Procedure 3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch or within a different period specified by the director, serve each respondent with copies of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) any fact sheets provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution.

Section 89(1) of the Act states that 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 document]...

In this case, I find that the Notice of Hearing relating to the Landlords' Application was made available to them on February 15, 2023. The Landlords stated that they posted the Notice of Hearing to the Tenant's door sometime in April 2023. I find that this is beyond the three-day time limit that the Landlords had to serve the Tenant.

Furthermore, I find that the Landlords were not permitted to post the Notice of Hearing to the Tenant's door as this is not an approved method of service pursuant to Section 89 of the Act.

As the Tenant stated that they only received the Landlords' Application two weeks before the hearing and were unable to adequately prepare a response to their Application, I dismiss the Landlords' Application WITH leave to reapply. Leave to reapply does not extend any statutory timelines.

The hearing continued based on the Tenant's Application to cancel the Two Month Notice. I note that Section 55 of the *Residential Tenancy 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*.

The opportunity for settlement was discussed with the parties during the hearing. The parties were advised there is no obligation to resolve the dispute through settlement, but that I could assist the parties to reach an agreement. I indicated on several occasions that if either party did not wish to resolve this matter through a mutually agreed settlement, I was prepared to hear their evidence and make a decision.

#### Settlement Agreement

During the hearing, the parties agreed to settle this matter, on the following conditions:

1. The parties agree that the tenancy will end on **June 15, 2023 at 1:00PM.**
2. The Landlords are granted an order of possession effective **June 15, 2023, at 1:00 p.m.** The Landlords must serve the Tenant with the order of possession.
3. The Tenant withdraws their Application in full as part of this mutually settled agreement.

This settlement agreement was reached in accordance with section 63 of the *Act*.

#### Conclusion

I order the parties to comply with the terms of their mutually settled agreement described above.

The Landlords have been granted an order of possession effective June 15, 2023, at 1:00 p.m. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The Landlords' Application is dismissed with leave to reapply.

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 29, 2023

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Residential Tenancy Branch