



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      OPL-4M, FFL

### Introduction and Preliminary Matters

On March 6, 2023, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit (the "Notice") pursuant to Section 49 of the *Residential Tenancy Act* (the "Act") and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On March 8, 2023, this Application was set down for a hearing on June 23, 2023, at 11:00 AM.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 11:00 AM and monitored the teleconference until 11:05 AM. Only a representative for the Landlord dialed into the teleconference during this time. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that J.F. was the only other person who had called into this teleconference.

At the outset of the hearing, J.F. provided a solemn affirmation.

He advised that the Tenant gave up vacant possession of the rental unit approximately a month ago, but he was not sure of the specific date this was done.

As the Tenant has already given up vacant possession of the rental unit, I find that it is unnecessary to consider the merits of the Notice or grant an Order of Possession. As such, I dismiss the Landlord's Application without leave to reapply.

However, I caution the Landlord that the purpose of this Notice is for demolition or conversion of the rental unit, and it appears from the notes on the second page of the Notice that this was served due to renovations to the rental unit. As this appears as if this Notice was served in error, the Landlord may be faced with a claim for 12 months' compensation by the Tenant.

As the Landlord was not successful in this claim, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

I dismiss the Landlord's Application for Dispute Resolution without 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: June 23, 2023

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Residential Tenancy Branch