



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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## DECISION

Dispute Codes      CNC-MT OLC FFT OPL FFT

### Introduction

The tenant sought an order to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") pursuant to section 49 of the *Residential Tenancy Act* (the "Act"). The tenant also sought an order for landlord compliance under the Act and they sought to recover the cost of their application under the Act.

The landlord sought an order of possession based on the Notice, pursuant to section 55 of the Act, and they sought to recover the cost of their application under the Act.

### Preliminary Issue: Conclusive Presumption

Both the landlord and the tenant testified under oath that the tenant received the Notice on April 28, 2023. The Notice was posted on the door.

A tenant who receives a Two Month Notice to End Tenancy for Landlord's Use of Property (given under section 49 of the Act) has 15 days after the date the tenant receives such a notice to make an application for dispute resolution. In other words, in this case, the tenant had until May 15, 2023, to file their dispute application (because the fifteenth day fell on a weekend, it is the next business day which then applies).

Unfortunately, the tenant did not file his application for dispute resolution until May 16, 2023, which is a day late. He did not provide any explanation during the hearing as to why it was filed late, so I am unable to extend the time limit.

Under section 49(9) of the Act, when a tenant does not file an application within the 15-day period they are "conclusively presumed" to have accepted that the tenancy ends on the effective date of the notice, which in this case was June 30, 2023. And they are required to vacate the rental unit. Because the tenant did not make an application to dispute the Notice in time, and because I am unable to extend that time, the tenant's application to cancel the Notice is dismissed without leave to reapply.

Last, having reviewed the Notice, it is my finding that it complies with the form and content requirements of section 52 of the Act.

Pursuant to section 55(2)(b) of the Act, the landlord is granted an order of possession of the rental unit effective Saturday, September 23, 2023. The tenancy shall therefore end on this date.

The tenant's application for orders of compliance and to recover the application fee are accordingly dismissed without leave to reapply. The landlord's application to recover the cost of the application fee is granted. A monetary order in the amount of \$100.00 is issued to the landlord, and the tenant is ordered to pay this amount to the landlord.

As an aside, this was a rather peculiar dispute. There are two landlords named on the tenancy agreement. However, only one of the landlords issued the Notice whilst the other landlord attended the hearing *on behalf of and in support of* the tenant. Both landlords confirmed on the record that they disagreed about the issuing of the Notice. However, because the landlords are joint landlords, only one landlord is needed to issue a notice to end tenancy.

### Conclusion

**The tenant's application is dismissed, without leave to reapply.**

**The landlord's application is granted, and they are granted an order of possession which they must serve upon the tenant.**

**The tenancy is ordered ended effective September 23, 2023, at 1:00 p.m.**

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: September 9, 2023

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Residential Tenancy Branch