



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenants under the *Residential Tenancy Act* (the Act), seeking:

- Cancellation of a Two Month Notice to End Tenancy for Landlord's Use of Property (the Two Month Notice).

The hearing was convened by telephone conference call at 11:00 AM on November 16, 2021, and was attended by the Tenant K.N., who provided affirmed testimony. Neither the Landlord nor an agent acting on their behalf attended.

The Act and the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that the respondent must be served with a copy of the Application and Notice of Hearing.

Section 59 of the Act states the following with regards to the service of the Application on the Respondent:

### **Starting proceedings**

- 59** (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

The Rules of Procedure also state the following with regards to the service of documents and evidence:

### **3.1 Documents that must be served with the hearing package**

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Application for Dispute Resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package 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, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].

In the hearing the Tenant stated that after filing the Application, the Landlord contacted them by email to withdraw the notice and extend the tenancy for an indeterminate period. As a result, the Tenant stated that the tenancy continued, and they therefore did not serve the Landlord with the Notice of Dispute Resolution Proceeding Package or evidence as it was unnecessary. The Tenant stated that they were unable to withdraw the hearing themselves and as a result, they appeared at the hearing to advise me that the matter related to the Two Month Notice was resolved and there was no need to proceed with the hearing.

Based on the Tenant's affirmed and uncontested testimony, I am satisfied that the Landlord was not served with the Application or the Notice of Hearing in accordance with the aforementioned section of the *Act* or the Rules of Procedure. As the ability to know the case against you is a fundamental tenant of the dispute resolution process, and I am not satisfied that the Landlord was served with the Application, the Notice of Hearing, or the documentary evidence before me, I find that it would be a breach of the *Act*, the Rules of Procedure, and the principles of natural justice and administrative fairness to proceed with the hearing as scheduled. As a result, the Application is dismissed with leave to reapply. This is not an extension of any statutory time limit.

In any event, it appears that the matter of the Two Month Notice has already been settled between the parties and that a dispute of the Two Month Notice is therefore unnecessary.

### Conclusion

The Tenants' Application is dismissed with leave to re-apply. This is not an extension of any statutory deadline.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 16, 2021

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Residential Tenancy Branch