



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: CNL FF

## Introduction

This hearing dealt with an application by the tenants to cancel a notice to end tenancy for landlord's use and recovery of the filing fee for the cost of their application. The landlord was represented by counsel in the hearing.

## Issue(s) to be Decided

Is the notice to end tenancy valid?

## Background and Evidence

The tenancy began on May 1, 2003. The rental unit is a cottage located on the same property as the landlord's house. In September 2008 the landlord served the tenants with a two month notice to end tenancy for landlord's use. The landlord's evidence is that he is currently going through a divorce, and he wishes to move into the cottage so that he can bring in more rental income by renting out the larger house and also save on heating costs. The landlord stated that his monthly propane bill in the winter months is approximately \$800, and he is on a fixed income. The landlord provided as evidence a propane bill dated June 2005 for the amount of \$704.26 and a bank statement that shows his pension incomes totaling \$1387.89. The landlord also pointed out in the hearing that the amount of \$797 represented the propane bill he paid for the month of September 2008. The landlord did not present any other propane bills or include the rental income from the cottage in his evidence. The landlord stated in the hearing that he planned to first conduct renovations on the cottage and then determine whether he could live in it or not.

The tenants submitted that the landlord did not intend in good faith to occupy the cottage, but rather that the landlord has personal reasons why he wants to get rid of the tenants and he is acting in bad faith. The tenants questioned the validity of the propane bill and the landlord's statement that he spends approximately \$800 per month on propane to heat his house.

### Analysis

The notice to end tenancy indicates that the reason the landlord seeks to end the tenancy is that he intends to occupy the rental unit. The landlord gave clearly contradictory evidence in the hearing that he first intended to conduct renovations on the rental unit and then determine whether he would live there. It is open to a landlord to issue a notice to end tenancy for the purpose of conducting renovations, but the landlord did not do so in this instance. The tenants were therefore not given notice of the landlord's intentions to renovate, and the landlord did not present any evidence in the hearing to prove that he intended in good faith to do renovations that would require vacant possession of the rental unit and that the landlord had whatever permits were necessary to carry out those renovations. I therefore find that the landlord has not established that he plans to occupy the rental unit.

### Conclusion

The notice to end tenancy is not valid. I therefore cancel the notice, with the effect that the tenancy continues. The tenants are entitled to recovery of the \$50 filing fee, which they may deduct from next month's rent.

Dated October 27, 2008.