



# 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 tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

## Issue(s) to be Decided

Does the landlord have grounds to end this tenancy?

## Background and Evidence

The parties agreed that on September 29, 2009 the landlord served the tenant with a two month notice to end tenancy (the "Notice"). The Notice stated that the landlord had sold the rental property and the purchaser or a close family member of the purchaser intended to reside in the rental unit. At the hearing the landlord testified that he gave the tenant the Notice when he received an offer on the house, but that the sale had not completed.

## Analysis

Under the Act, the landlord may not give a notice to end tenancy for this reason until the rental unit has been sold, meaning that all the subjects have been removed, and the purchaser has made a written request that the tenant be evicted because the purchaser or his close family member intends to reside in the rental unit. I find that the landlord gave the Notice before both of these conditions were satisfied and accordingly I find that the Notice cannot be supported. I order that the Notice be set aside. As a result, the tenancy will continue. As the tenant has been successful in his application, I find that the tenant is entitled to recover the \$50.00 filing fee paid to bring the application. The tenant may deduct \$50.00 from future rent owed to the landlord.

Conclusion

The Notice is set aside and is of no force or effect. The tenant may deduct \$50.00 from a future rental payment.

Dated November 12, 2009.