



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes CNL, OLC, LRE, O, FF

### Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issue, (which is a request to have a section 49 Notice to End Tenancy cancelled), to be dealt with together.

I therefore will deal with a request to have the section 49 Notice to End Tenancy cancelled, and I dismiss the remaining claims with liberty to re-apply.

### Background and Evidence

On or about November 12, 2009 the tenant was served with a section 49 Notice to End Tenancy for landlord use. The applicant is requesting that that notice be cancelled.

The applicant testified that:

- He does not believe that this notice is been given in good faith.
- The landlord told him that he was not going to move into the dispute premises, but was going to keep it to use for guests and family when they visited.
- The landlord has a guest room in the upper portion of the house, and therefore does not need to use the lower portion for guests.

The applicant is therefore requesting that the Notice to End Tenancy be cancelled.

The agent for the respondent testified that:

- The respondent found being the landlord to be too stressful and found that it was affecting his health.
- The landlord's doctor has recommended that he give up being a landlord due to health reasons.
- The landlord does not intend to re-rent the rental unit, and will be using it for his own use, which may include having guests stay over in the unit.

The landlord is therefore requesting that the Notice to End Tenancy be upheld and an Order of Possession be issued for the end of tenancy date.

## Analysis

The Residential Tenancy Act allows the landlord to end the tenancy if he wants to use the rental property for his own use, and it is my finding that that is the case here.

I accept that the landlord does not intend to re-rent the rental unit and that he will be using the unit as part of his home.



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The Residential Tenancy Act does not require the landlord physically moves himself into the rental unit when he gives a notice for landlord use, it is sufficient that the landlord intends to use that portion of the house as part of his house, and this can include allowing guests or family to use that portion of the house as long as he is not re-renting that portion of the house.

I will therefore not set aside the Notice to End Tenancy.

## Conclusion

The application to set aside the section 49 Notice to End Tenancy is dismissed without leave to reapply and I have issued an Order of Possession to the landlord for 1 p.m. on January the 14th 2010.

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: December 07, 2009.

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Dispute Resolution Officer