

## DECISION

Dispute Codes      CNC CNL ERP RP LRE O FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain Orders to cancel a notice to end tenancy for cause, to cancel a notice to end tenancy for Landlord's use, to have the Landlord make emergency repairs for health or safety reasons, have the Landlord make repairs to the unit, site or property, to suspend or set conditions on the Landlord's right to enter the rental unit, other reasons, and to recover the cost of the filing fee from the Landlord for this application.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on March 26, 2010. Mail receipt numbers were provided in the Tenant's verbal testimony. The Landlord is deemed to be served the hearing documents on March 31, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The Tenant and her Agent appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issues(s) to be Decided

Is the Tenant entitled to Orders to cancel the notices to end tenancy for cause and for landlord's use of the property under sections 47 and 49 of the *Residential Tenancy Act*?

Is the Tenant entitled to Orders to for the Landlord's actions sought under sections 32, 33, and 70 of the *Residential Tenancy Act*?

### Background and Evidence

The month to month tenancy began sometime around August 1, 2009. The monthly rent is payable on the first of each month in the amount of \$575.00 and a security deposit of \$238.00 was paid on or before August 1, 2009.

The Agent testified that the 1 Month Notice to End Tenancy for Cause was served to the Tenant on approximately March 20, 2010 and was a result of the Tenant requesting the Landlord repair the rental unit. The Agent confirmed that they noticed the mould on the

walls when the Tenant first occupied the rental unit and later found the water leak and electricity coming through the shower head. The Agent argued the Tenant was verbally requesting the Landlord complete the repairs between December 2009 and March 2010

The Tenant testified she found the 2 Month Notice for Landlord's use outside her front door on March 24, 2010, and confirmed the reason checked off on the notice was all of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the Landlord to give notice to the Tenant.

The Tenant confirmed the rental house was sold through a real estate agent and the new owners took possession of the rental unit and moved into the main floor sometime around the first of May 2010. The Tenant testified that one of the new owners told her she could not stay in the rental unit because one of their parents was coming in from out of town and they wanted to repair the unit before they arrived.

The Tenant testified that she did not pay rent for May 2010, as she was withholding the last month's rent as her compensation for receiving the 2 Month Notice to End the Tenancy.

The Agent argued that they had a conversation with one of the owners and asked if a request was given to the Landlord, in writing, to end the Tenant's tenancy, and that this owner answered "no". The Agent confirmed that he did not speak to the other owner about this.

### Analysis

All of the testimony and documentary evidence was carefully considered.

Upon review of the evidence, I find the 2 Month Notice to End Tenancy was served upon the Tenant in a manner that complies with the Act. The 2 Month Notice has been completed in accordance with the Act however it displays an incorrect effective date. Section 53 of the Act provides that if the effective date stated in the notice is earlier than the earliest date permitted under the Act, the effective date is deemed to be the earliest date that complies with the Act. In this case the effective date when the Tenant must move out of the rental unit is May 31, 2010.

Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the Notice, therefore I dismiss the Tenant's application, and the tenancy effectively ends on May 31, 2010 at 1:00 p.m.

Having upheld the 2 Month Notice to End Tenancy and confirming the Landlord no longer owns the property, I find the remainder of the Tenant's application to be moot, and is hereby dismissed.

The Tenant has not been successful with her application; therefore I decline to award recovery of the filing fee.

### Conclusion

I HEREBY DISMISS the Tenant's application, without leave to reapply.

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: May 13, 2010.

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Dispute Resolution Officer