



## **Dispute Resolution Services**

Residential Tenancy Branch  
Ministry of Housing and Social Development

### **Decision**

#### **Dispute Codes:**

CNL, FF

#### **Introduction**

This Dispute Resolution hearing was convened to deal with an Application by the tenant for an order to cancel a Two-Month Notice to End Tenancy for Landlord's Use dated April 23, 2010 purporting to be effective June 31, 2010.

Both the landlord and the tenant appeared and gave testimony in turn.

#### **Issue(s) to be Decided**

The tenant was seeking to cancel the Two-Notice for Landlord's Use Therefore the issue to be determined based on the testimony and the evidence is:

- Is the Two-Month Notice to End Tenancy for Landlord's Use supported under the circumstances?

The burden of proof is on the landlord to establish that the Two-Month Notice to End Tenancy for Landlord's Use is supported by the Act and issued in good faith.

#### **Background and Evidence**

The tenant submitted into evidence a copy of the Two-Month Notice to End Tenancy for Landlord Use dated April 23, 2010. The second page did not contain any indication of the reason for ending the tenancy.

The parties testified that the tenancy began in July 1999 with current rent of \$760.00.

The landlord testified that a Two-Month Notice to End Tenancy for Landlord Use was posted on the tenant's door on April 23, 2010. The landlord testified that, although there was no reason indicated on page 2 of the Notice, the tenant was aware that the landlord was seeking to use the rental unit to be occupied by the landlord's son.

### **Analysis**

Section 49 of the Act states that a landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. The Act defines, "close family member" as an person, who is

- (a) the individual's father, mother, spouse or child, or
- (b) the father, mother or child of that individual's spouse;

Section 49 of the Act states that the notice to end the tenancy can only be effective on a date that must be

- (a) not earlier than 2 months after the date the tenant receives the notice,
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
- (c) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

In this instance the landlord was purporting to end the tenancy because his son was moving into the rental unit and had issued a Two-Month Notice for Landlord Use dated April 23, 2010 effective June 31, 2010.

However the second page of the Notice issued by the landlord was not completed as it failed to indicate the specific reason(s) for terminating the tenancy.

Section 52 of the Act speaks to the form and content of a notice to end tenancy and states that, in order to be effective, a notice to end a tenancy must be in writing and must:

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, **state the grounds for ending the tenancy**, (my emphasis) and
- (e) when given by a landlord, be in the approved form.

In this instance, I find that the Two-Month Notice issued by the landlord was not in compliance with the Act as the second page was issued without having been fully completed and failed to indicate the precise reason for the termination of the tenancy.

Accordingly, I find that the Two-Month Notice to End Tenancy dated April 23, 2010 cannot be enforced as it is defective for not complying with section 52 of the Act.

### **Conclusion**

Based on the testimony and evidence presented during these proceedings, I order that the Two-Month Notice to End Tenancy for Landlord Use dated April 23, 2010, is hereby cancelled and of no force nor effect. The tenant is entitled to be reimbursed the \$50.00 cost of the application and may deduct this amount from the next rental payment owed to the landlord as a one-time abatement.

July 2010

Date of Decision

\_\_\_\_\_  
Dispute Resolution Officer