

## Decision

### Dispute Codes:

OPL, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the landlord's Two-Month Notice to End the Tenancy for Landlord's Use dated August 30, 2011 and purporting to be effective November 1, 2011. Both parties appeared and each gave testimony in turn.

### Issue(s) to be Decided

The issue to be determined based on the testimony and the evidence is whether the tenancy can be ended for landlord's use based on the Two Month Notice to End Tenancy or whether the Notice should be cancelled as requested by the tenant.

### Background and Evidence

The tenancy began on May 1, 2000 and rent is \$650.00. A security deposit of \$625.00 was paid. The tenant submitted into evidence a copy of the Two-Month Notice to End Tenancy indicating that "*The house will be for sale*". The form utilized by the landlord was a defunct form with sections of the Act cited that no longer apply.

The landlord testified that she intended to put the house up for sale and this was the reason that the Two-Month Notice was issued.

### Analysis

Under section 49(5) of the Act under, "*Landlord's notice: landlord's use of property*", the Residential Tenancy Act states that a landlord may end a tenancy in respect of a rental unit if

- (a) the landlord enters into an agreement in good faith to sell the rental unit,
- (b) all the conditions on which the sale depends have been satisfied, and
- c) the purchaser has requested in writing that the unit be vacant as a close member of the purchaser's family will be residing in the unit.

The tenant has asked that the Two Month Notice to End Tenancy for Landlord's Use be cancelled as the reason indicated by the landlord was not in compliance with the Act.

Even if I accepted the form used by the landlord as valid, I find that the justification provided by the landlord for ending the tenancy does not comply with the Act.

Accordingly, I find that the landlord has not sufficiently met the burden of proof to validate the Two Month Notice to End Tenancy for Landlord's Use. Therefore, the Notice to End Tenancy for Landlord's Use dated August 30, 2011 must be cancelled.

**Conclusion**

I hereby order that the Two-Month Notice To End Tenancy for Landlord's Use dated August 30, 2011 is cancelled and of no force nor effect.

I further order that the tenant be reimbursed for the \$50.00 cost of this application and can deduct this amount from the next rent payment owed as a one-time abatement.

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: September 30, 2011.

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Residential Tenancy Branch