



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

This conference call hearing was convened in response to the tenant's application for more time to make an application to cancel a notice to end tenancy; for cancellation of a Notice to End Tenancy and to recover the filing fees associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Should the notice to end tenancy be set aside, and should the tenancy continue?

Is the tenant entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of the upper level of a duplex. This tenancy started ten to fifteen years ago, and the current is \$1205.00 per month.

The landlord testified that the unit needs renovating and that the lower may no longer be available for rent. The tenant said that her son will move into the unit to do the work, however periodically as he works between here and Los Angeles. The landlord said that part of the renovations will involve the replacement of cupboards.

The tenant testified that the landlord just lost a Residential Tenancy Branch decision in January 2012 over a notice to end tenancy for cause, and that this is merely another attempt to get rid of them.

At the hearing, an opportunity for an informal resolution to this matter was provided however the parties could not reach an agreement.

### Analysis

The landlord bears the burden to prove the grounds to end the tenancy. Section 49 of the Act allows a landlord to end a tenancy if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to renovate or repair the rental unit in a manner that requires the rental unit to be vacant. The landlord provided no evidence of permits or approvals. The fact that cupboards need to be replaced is not convincing evidence that the unit needs to be vacant.

With the fact that this intention was developed so soon after an unsuccessful attempt to end the tenancy, it calls the landlord's good faith into question.

For these reasons I find that the notice to end tenancy is of no force or effect. If the landlord can provide more material evidence that the extent of the renovations requires that the tenants need to vacate, along with the necessary municipal permits, the landlord may serve a new notice to end tenancy.

### Conclusion

The landlord's 2 Month Notice to End Tenancy is set aside and the tenancy will continue.

Since the tenant was successful, I authorize the tenant to recover the filing fee by deducting \$50.00 from the next rental payment.

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: March 20, 2012.

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Residential Tenancy Branch