



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, 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.

### Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that has been given for landlord use, and a request for recovery of the filing fee.

### Background and Evidence

The landlord testified that:

- They are required by the City of Burnaby to reinstate the stairs from the lower part of the building to the upper part of the building.
- The City of Burnaby has also recommended, in an e-mail dated March 26, 2012, that for safety concerns, the rental unit be vacant while the work is being completed.
- Reinstating the stairs will involve opening a large opening in the floor, and the removal of a wall and this will cause a dangerous situation for the people in the rental unit.
- They also consulted with a lawyer and the lawyer recommends, for a liability concerns, that the unit be vacant prior to starting the renovation.
- They have therefore served the tenants with a two months notice to end the tenancy and request that the notice be upheld and that an Order of Possession be issued.

The tenants testified that:

- They disputed the notice to end tenancy because they felt that the renovation could be done while they were living in the rental unit.
- At the time that they filed their dispute they were unaware of the letter from the City of Burnaby recommending that the premises be vacant while the work is being completed.
- Had they been aware of the e-mail from the City of Burnaby they would not have filed a dispute, and therefore they are now willing to vacate the rental unit but request more time.

### Analysis

The Act requires that the landlord give the tenants two months Notice to End Tenancy; however it is my decision that I will allow one extra month for the tenants to find suitable accommodation, because they did not become aware of the e-mail from the City of Burnaby until today's hearing, as the landlord did not serve a copy of the e-mail on the tenants.

Further since the tenants would likely not have filed a dispute had the landlord given them a copy of the e-mail from the City of Burnaby in the first place, I also order that the landlord bear the cost of the filing fee.

### Conclusion

I have issued an Order of Possession to the landlords for 1 p.m. on June 30, 2012.

I further Order that the landlord bear the cost of the filing fee paid for this hearing. The tenant may therefore deduct \$50.00 from future rent payable to the landlord.

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: April 24, 2012.

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Residential Tenancy Branch