



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes CNL, FF

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by one of the tenants; their agent and one of the landlords.

During the hearing, the landlord did not verbally request an order of possession should the tenants be unsuccessful in their Application.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agree the tenancy began in June or July of 1996 as a month to month tenancy with a current monthly rent of \$820.00 due on the 1<sup>st</sup> of each month with a security deposit of \$400.00 paid.

The parties agree the landlord issued a 2 Month Notice to End Tenancy for Landlord's Use on or before August 22, 2012 and that the tenants received the Notice on August 22, 2012.

The tenant submitted a copy of the 2 Month Notice issued by the landlord showing an effective vacancy date of September 30, 2012 citing the landlord or a close family member of the landlord or the spouse of the landlord would be occupying the rental unit.

The landlord testified that he will be moving in to the rental unit. The tenants submit that they do not dispute the landlord's notice but rather the effective date. The tenant notes that they did not receive full two months notice as they had received the written notice on August 22, 2012 and the effective date was September 30, 2012.

### Analysis

Section 49 of the *Act* allows a landlord to end a tenancy by issuing a notice to end tenancy with an effective date not earlier than 2 months after the date the tenant receives the notice and the day before the day in the month that rent is due under the tenancy agreement if the landlord or a close family member of the landlord or the landlord's spouse will occupy the unit.

Section 53 states that if a landlord provides a notice to end tenancy that has an effective date that does not comply with the requirements in the *Act*, the effective date is deemed to be the earliest date that complies with the section. As such, I find the earliest effective date for the notice provided by the landlord could be is October 31, 2012.

The parties also agreed in the hearing that the tenant would not need to pay rent for the month of October 2012 in lieu of the compensation required under Section 51 for the landlord ending the tenancy for his own use.

### Conclusion

As the tenant did not dispute the 2 Month Notice, I dismiss the tenant's Application in its entirety.

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: October 01, 2012.

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Residential Tenancy Branch