



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a Notice to End Tenancy –Section 49; and
2. An Order for the recovery of the filing fee – Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on March 2001. On September 25, 2012 the Landlord served the Tenant with a Two Month Notice to End Tenancy for Landlord’s Use (the “Notice”). The reasons for the Notice are as follows:

- The rental unit will be occupied by the landlord or the landlord’s spouse or a close family member;
- The landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

The Landlord states that a family member may possibly move into the unit after the unit has been repaired. The Landlord states that his daughter, or his brother or he may

move into the unit. The Landlord also states that several repairs will be made to the unit, some of which will require permits however the permits will be obtained as the renovations are planned or carried out by contractors. The Landlord states that although he intends to have a family member move into the unit, if the Landlord changes his mind about this, then he will sell the unit.

The Landlord states that repairs will be done to the unit that require the unit to be vacant and sets out repairs as called for by the Tenant in her submissions. The Landlord finally states that the primary reason for ending the tenancy is that he and the Tenant no longer "hit it off" and it is time for them both to move on.

The Tenant states that the Landlord's stated primary reason for ending the tenancy is correct and that the Parties have not had a good relationship since the Landlord lost his claim to increase the rent higher than allowed by the Act. The Tenant states that his daughter is married and lives in a house owned by the daughter. The Tenant states that the Landlord already lives in a large house and it make no sense that either he or his daughter would move out of their own homes to live in the unit.

### Analysis

The relevant section of the Act sets out as follows:

**49** (1) In this section:

**"close family member"** means, in relation to an individual,

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

(3) 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.

(6) A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

- (a) demolish the rental unit;

- (b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant;
- (c) convert the residential property to strata lots under the *Strata Property Act*;
- (d) convert the residential property into a not for profit housing cooperative under the *Cooperative Association Act*;
- (e) convert the rental unit for use by a caretaker, manager or superintendent of the residential property;
- (f) convert the rental unit to a non-residential use.

The salient portion of the Act in relation to the validity of the Notice is whether or not the Landlord has good faith intentions in ending the tenancy. As the Landlord was clear that the main reason for ending the tenancy was because the Parties no longer get along, I find that the Landlord does not have the good faith intention to end the tenancy for the reasons indicated on the Notice and I find therefore that the Notice is not valid. As the Notice is not valid, I find that the Tenant is entitled to a cancellation of the Notice.

As the Tenant has been successful with the application, I find that the Tenant is entitled to recovery of the filing fee and I order the Tenant to deduct \$50.00 from December 2012 rent payable.

### Conclusion

The notice to end tenancy is cancelled and the tenancy continues. I order the Tenant to deduct \$50.00 from December 2012 rent. 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: November 07, 2012.

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Residential Tenancy Branch