



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, OLC and LRE

### Introduction

By application of July 5, 2013, the tenant sought to have set aside a two-month Notice to End Tenancy for landlord use served on June 30, 2013 and setting an end of tenancy date of August 31, 2013. The tenant also sought an order for the landlord to comply with the rental agreement and legislation and an order limiting the landlord's access to the rental unit.

### Issue(s) to be Decided

Should the Notice to End Tenancy of June 30, 2013 be set aside or upheld? Are orders regarding landlord compliance and limiting access to the rental unit warranted?

### Background and Evidence

This tenancy, in a basement suite in the landlord's home, began in February 2012. Rent is \$625 per month and the landlord holds a security deposit of \$312.50 paid at the beginning of the tenancy.

During the hearing, the landlord's son, acting as her advocate, gave evidence that the landlord's physician had recommended that it would be prudent if a close family member were to move into the basement suite to make assistance more readily available to the landlord who is in her eighties.

He gave evidence that, in order to act on that advice, he would be moving into the rental unit when it became vacant.

The tenant stated that she had questioned the motive behind the notice as the landlord had, on a number of occasions, asked her to vacate the suite and she was concerned that the notice for landlord use had been misused simply to evict her without cause.

The landlord's son stated that he was fully aware that under such notice, the tenant was entitled to the last month's free rent under section 51 of the Act, and of the same section's provision for a tenant's application for the equivalent of an additional two months' rent if the rental unit was not used for the purpose stated on the notice.

He stated that the tenant's cheque for August 2013 rent had not been cashed and would be returned to her immediately if the notice was upheld .

### Analysis

Section 49(3) of the *Act* provides that a landlord may issue a two-month Notice to End Tenancy in circumstances in which the landlord requires vacant possession, "...if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit."

I accept the evidence of the landlord's son that he will be moving into the rental unit in consideration of her physician's advice, that the notice of June 30, 2013 was service in good faith, and that it is lawful and valid.

Therefore, I find that I cannot set the notice aside.

Given that the end of the tenancy is imminent, I find that it is not necessary that I issue orders that the landlord comply with the legislation and rental agreement.

With respect to the landlord's entry into the rental unit, I would remind the parties of the tenant's right to quiet enjoyment under section 28 of the *Act*. In addition, the landlord is reminded of the requirement under section 29 of the *Act* to provide 24-hour written notice before entering the rental unit, and that such should be used for routine inspections only once monthly unless the tenant agrees otherwise.

Conclusion

The Notice to End Tenancy for landlord use of June 30, 2013 ending the tenancy on August 31, 2013 is upheld.

The orders requested by the tenant have substantially been rendered moot by the imminent end of the tenancy.

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: August 08, 2013

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Residential Tenancy Branch

