



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel the Two Month Notice to End Tenancy (the Notice) for the landlord's use of the property.

Both parties attended the conference call hearing and gave sworn testimony. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issues(s) to be Decided

- Is the tenant entitled to have the Notice cancelled?

### Background and Evidence

This month to month tenancy started on October 30, 2013. The tenant pays a monthly rent of \$500.00 which is due on the 1<sup>st</sup> of each month. The tenant paid a security deposit of \$200.00 at the start of the tenancy. The tenant was given the Notice on May 20, 2014 with a date to vacate given as July 31, 2014. This was sent to the tenant by registered mail and was deemed to be served five days later. The tenant applied to dispute this Notice on May 22, 2014. The reason given on the Notice is that the landlord or a close family member wishes to occupy the rental unit.

The landlord testified that she has owned this property since 2008 and has mostly lived in the house as her job takes her in and out of the area so the landlord will sometimes only live in the house for three days a week. The landlord testified that she now wishes

to reside permanently in her house and will no longer be renting the house to tenants. The landlord testified that at present she is living in a motor home on a friend's property without proper facilities. The landlord testified that she had intended to move back into her home on August 01, 2014 as per the effective date of the Notice; however the landlord is willing to extend the effective date of the Notice to September 01, 2014 to give the tenant extra time to find alternative accommodation.

The landlord orally requests an Order of Possession effective for September 01, 2014. The landlord testified that the tenant will receive compensation equivalent to one month's rent because of the Notice and will not have to pay rent for August, 2014.

The tenant disputes this Notice and states that he believes the reason given by the landlord on the Notice is false. The tenant testified that the landlord wants the tenant out of the home because the tenant cannot mow the lawn due to his disabilities. The tenant testified that the landlord keeps threatening to call welfare about the tenant and is using the excuse that she wants to move back into the rental unit to get rid of the tenant. The tenant disputes the landlord's claim that she intends to occupy the rental unit.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I find that despite the tenant's arguments that the landlord will not be occupying the rental unit, the tenant has insufficient evidence to indicate that the landlord will not be using the property for its intended purpose as given on the Notice to End Tenancy. I am satisfied with the evidence before me that the landlord does intend to use the rental unit for the reason given on the Notice. I find therefore, that the Notice under section 49 of the *Residential Tenancy Act (Act)* is upheld and the tenant's application to cancel the Notice is dismissed.

Section 55(1) of the *Act* states:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of*

*possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

*(a) the landlord makes an oral request for an order of possession, and*

*(b) the director dismisses the tenant's application or upholds the landlord's notice.*

Consequently I find as the Notice has been upheld and the tenant's application is dismissed, the landlord is entitled to orally request an Order of Possession at the hearing. As such I grant the landlord an Order of Possession pursuant to s. 55(1) of the *Act*.

#### Conclusion

The tenant's application is dismissed without leave to reapply. The Two Month Notice to End Tenancy for the landlords' use of the property will remain in force and effect.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on September 01, 2014. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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: July 17, 2014

---

Residential Tenancy Branch

