



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

**File No: 835579**

## **DECISION**

Dispute Codes: CNL, MNDC, FF

### Introduction

This hearing was scheduled in response to applications by 6 tenants from a total of 4 units, for cancellation of a notice to end tenancy for landlord's use of property / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. All parties attended and / or were represented and gave affirmed testimony.

At the outset of the hearing tenant "JCA" testified that she had now resolved her dispute with the landlord, and that she was therefore withdrawing her application. A separate decision has been issued with respect to tenant "JCA's" application.

### Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

The units which are the subject of this dispute are located in one large house. It is understood that there are a total of 6 units in the house. The tenants in this application reside in a total of only 4 of the 6 units.

It is understood that the parties are bound by the terms of respective month-to-month tenancies. By letter dated April 02, 2015, the current landlord informed the tenants that he had purchased the property from their original landlord. Subsequently, by letter dated April 09, 2015 the landlord informed the tenants of his intent to have the house "demolished," and indicated his intention to "definitely give you a 2 month notice to vacate the unit, so that you have enough time to arrange for moving." Shortly thereafter, by letter dated April 29, 2015, the landlord informed the tenants of "good news," which was that there was no longer any intent to "demolish the property." Following this, by letter dated May 22, 2015, the landlord forwarded "Mutual Agreement

to End Tenancy” documents to tenants, with a view to negotiating a mutually agreeable end to their respective tenancies. However, in the event that tenants were unwilling to reach a mutual agreement, in this letter the landlord instructed that in the alternative, “we will send an official ‘2 month notice to end tenancy for landlord’s use of property’ in case you disagree with our attached offer.” Later, pursuant to section 49 of the Act which addresses **Landlord’s notice: landlord’s use of property**, the landlord issued a notice to end tenancy dated May 25, 2015. A copy of the notice was submitted in evidence. The date shown by when the tenants must vacate the unit is August 01, 2015. The reason identified on the notice in support of its issuance is as follows:

A family corporation owns the rental unit and it will be occupied by an individual who owns, or whose close family member owns, all the voting shares.

The tenants filed applications to dispute the notice.

The 2 month notice was followed by a letter dated June 19, 2015, which was sent to the tenants by legal counsel acting on behalf of the landlord. In short, the landlord sought to resolve the dispute prior to the hearing scheduled for July 13, 2015. In particular, a proposal was made concerning an end date to tenancy in addition to certain compensation. As previously noted, while the dispute related to tenant “JCA’s” application was resolved prior to the hearing, the dispute concerning the other tenants was not resolved.

Finally, by letter to the Residential Tenancy Branch dated July 03, 2015, and shown as copied to all affected tenants, the landlord stated that he had withdrawn the above 2 month notice to end tenancy for landlord’s use of property.

During the hearing, through his legal counsel, the landlord testified that the intention is still ultimately to end the subject tenancies. However, the landlord acknowledged that there has been a learning process associated with this intention and that unintended consequences and / or missteps have occurred. Going forward, it is understood that the landlord will undertake with proper guidance to end tenancy in accordance with the Act and all applicable local government bylaws.

While the tenants were prepared to acknowledge that the landlord was in the midst of a learning curve with respect to wanting the end the tenancies, they testified that for their part the frequently changing news, proposals to sign mutual agreements to end tenancy, and issuance of a 2 month notice, all served to create stress, and led to a breach of their right to quiet enjoyment, giving rise to a claim for aggravated damages.

### Analysis

Tenant “JCA’s” dispute was resolved and, accordingly, tenant “JCA” withdrew her application. A separate decision is issued with respect to tenant “JCA’s” application.

The landlord testified that it is not presently his intent to end the tenancies pursuant to the reason identified on the 2 month notice to end tenancy for landlord’s use of property dated May 25, 2015. Accordingly, the 2 month notice is hereby set aside, and the tenancies which remain the subject of this dispute continue in full force and effect.

Section 28 of the Act addresses **Protection of tenant’s right to quiet enjoyment**, in part:

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

(b) freedom from unreasonable disturbance;

Residential Tenancy Policy Guideline # 6 speaks to “Right to Quiet Enjoyment,” in part:

....an Arbitrator may award aggravated damages. These damages are an award, or an augmentation of an award, of compensatory damages for non-pecuniary losses.

(....Intangible losses for physical inconvenience and discomfort, pain and suffering, grief, humiliation, loss of self-confidence, loss of amenities, mental distress, etc. are considered “non-pecuniary” losses.)

Based on the documentary evidence and testimony, I find that it was not the landlord’s intent to act dishonestly or to unreasonably disturb the tenants by way various means he undertook to end the subject tenancies. Indeed, I find that the landlord’s efforts included attempts to negotiate a mutually agreeable end to tenancy, one of which was apparently successful. Nevertheless, by communicating changes in his plans for the property and the tenancies within a very short period of time, by not being fully cognizant of the relevant provisions of the Act, and by not evidently seeking to fully inform himself of these provisions before issuing a 2 month notice to end tenancy, I find that the landlord created unnecessary stress and inconvenience for the tenants. Accordingly, I find that the tenants have established entitlement to compensation in the limited amount of \$250.00 *per* each of the 3 subject units. I order that **\$250.00 per unit**

may be recovered by way of withholding that amount from the next regular payment of monthly rent.

As the tenants have succeeded with the main aspects of their respective applications, I find that they have also established entitlement to recovery of the filing fee. I order that the applicable amount may be withheld *per* unit from the next regular payment of monthly rent.

### Conclusion

The 2 month notice to end tenancy is hereby set aside, with the effect that the subject tenancies continue uninterrupted.

Pursuant to section 67 of the Act, I **ORDER** that tenants in the remaining 3 units which are the subject of this dispute may withhold **\$250.00** *per* unit from the next regular payment of monthly rent.

Further to the above, I **ORDER** that tenants in the remaining 3 units which are the subject of this dispute may recover the filing fee (variously either **\$50.00** or **\$25.00**) by way of withholding that amount *per* unit from the next regular payment of monthly 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: July 14, 2015

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Residential Tenancy Branch

