



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding International Society for Krishna Conciousness for Western Canada  
and [tenant name suppressed to protect privacy]

## 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 to recover the filing fee for this application - Section 72.

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

### Issue(s) to be Decided

Is the notice to end tenancy valid?

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

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started in July 1986. Rent and storage in the combined amount of \$885.00 are payable monthly on the first day of each month. On August 24, 2015, the Tenants received a two month notice to end tenancy for landlord's use (the "Notice"). The reason indicated on the Notice is that the unit must be vacant for renovations.

The Landlord states that the unit has to be empty to replace the heating system that includes the installation of baseboard heaters and an upgrade to the electrical panel. The Landlord states that the unit does not have to be empty to install the heaters but a vacant unit is required for the additional electrical work such as the likely need to pull out old wiring. The Landlord states that the permit for the removal of the boiler system has not been obtained. The Witness

states that he is the contractor for the Landlord and that the permit to install the baseboard heaters was obtained on August 25, 2015. The Witness states that the Landlord just learned this week-end that the heaters could not be installed without upgrading the electrical panel at the same time. The Witness states that the unit will have to be empty for the panel replacement as the unit will not have electricity for two weeks. The Witness states that the permit for the electrical panel has not been obtained.

Analysis

Section 49 of the Act provides that a landlord may end a if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to, inter alia demolish the rental unit or renovate or repair the rental unit in a manner that requires the rental unit to be vacant. Given the Landlord's own evidence that a permit has not been obtained for those part of the renovations requiring the unit to be empty I find that the Notice is not valid and that the Tenants are entitled to a cancellation of the Notice. The tenancy continues. As the Tenants have been successful with its application I find that the Tenants are entitled to recovery of the **\$50.00** filing fee and I order the Tenants to deduct this amount from future rent payable in full satisfaction of the claim.

Conclusion

The Notice is cancelled and of no effect.

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 09, 2015

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Residential Tenancy Branch

