



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes** CNL, OPL, FF

### **Introduction**

This hearing dealt with the tenant's application for dispute resolution, seeking to cancel a notice to end tenancy issued by the landlord for the landlord's use of the property. The tenant also applied for an order directing the landlord to comply with the *Act* and for the recovery of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **Issues to be Decided**

Has the landlord validly issued the notice to end tenancy? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started 17 years ago. The current monthly rent is \$1,076.00 payable on the first of each month.

The landlord stated that the rental unit was sold and the subjects to the sale of the property were removed in the early part of November 2015. The landlord stated that the tenant was verbally informed of this development and was also notified that the purchaser intended to take vacant possession of the property, on the closing date of March 02, 2016.

On December 30, 2015, the landlord issued the tenant a two month notice to end tenancy, to be effective on February 29, 2016

The reason the landlord gave the notice to the tenant is described as:

*All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this notice to end tenancy, because the purchaser or a close family member intends in good faith to occupy the rental unit.*

The tenant disputed the notice in a timely manner, on the basis that she does not believe that the purchaser will move into the rental unit because the purchaser has plans to demolish the rental unit. The landlord agreed that the owner has such plans and has already applied at the local municipal office, for a permit to do so. The landlord filed a copy of the purchaser's application for a demolition permit.

The landlord filed a copy of a letter from the purchaser requesting the landlord to serve the tenant with a notice to end tenancy. This letter does not indicate the intentions of the purchaser.

The landlord also agreed that he had not filed any evidence to support that all the conditions for sale of the rental unit have been satisfied.

I attempted to get the parties to come to an agreement but the tenant wanted to see proof of the purchaser's intentions before she would move out pursuant to a notice such as this.

### **Analysis**

Section 49 (5) of the *Residential Tenancy Act* states that a landlord may end a tenancy in respect of a rental unit if

- (a) The landlord enters into an agreement in good faith to sell the rental unit,
- (b) All the conditions on which the sale depends have been satisfied, and
- (c) The purchaser asks the landlord in writing, to give notice to end the tenancy on one of the following grounds:
  - (1) The purchaser is an individual and the purchaser or a close family member of the purchaser intends in good faith to occupy the rental unit
  - (2) The purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

In this case the landlord filed a copy of a letter from the purchaser that informs the landlord that he would like to take vacant possession of the rental unit on the completion date of March 02, 2016. This letter also requests the landlord to serve the tenant with a notice to end tenancy.

The letter does not state that the purchaser intends in good faith to occupy the rental unit. Therefore I find that the letter from the purchaser does not comply with section 49(c) and accordingly the notice to end tenancy must be set aside.

### **Conclusion**

The notice to end tenancy is set aside and the tenancy will continue.

Since the tenant has proven her case, she is entitled to the recovery of the filing fee of \$50.00. The tenant may make a one-time deduction of \$50.00 from a future 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: February 18, 2016

---

Residential Tenancy Branch

