



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS RENTAL AGENCY  
an[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

On May 30, 2016, the Tenants submitted an Application for Dispute Resolution disputing a 2 Month Notice To End Tenancy For Landlord's Use Of Property and requesting that the Landlord comply with the Act.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided 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.

I have reviewed all oral and written evidence before me. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

Is the mutual agreement to end tenancy valid?

Is the 2 Month Notice To End Tenancy for Landlord Use of Property valid?

### Background and Evidence

The Landlords and Tenants testified that the tenancy began October 1, 2014, as a month to month tenancy. Both parties agree that the current rent is \$1,600.00 per month and that the tenants paid a security deposit of \$800.00 and a pet deposit of \$800.00 to the Landlord.

The Landlords provided a copy of the tenancy agreement providing the names of the two Tenants at the start of the tenancy.

The Tenants testified that another Tenant moved into the rental unit. The Tenants have also provided a copy of an agreement between original Tenants and the new Tenant P.C. dated December 28, 2016, for use of one bedroom private space with heat and electricity for \$400.00 per month.

The Landlords testified that the rental property is owned by a private school. The Landlords submit that they were notified that a couple of teachers were moving into the city to work for the school. The Landlords issued the Tenants a 2 Month Notice To End Tenancy for Landlord Use of Property (the Notice) on May 26, 2016. The Notice has an effective date of July 31, 2016. The reasons within the Notice for ending the tenancy are:

- A family corporation owns the rental unit and it will be occupied by an individual who owns or whose close family members own all the voting shares.
- The Landlord intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property.

The Tenants disputed the Notice on May 30, 2016 by applying for dispute resolution.

The Landlord testified that the end of tenancy issue was resolved on June 8, 2016, when the Tenant M.P. entered into a Mutual Agreement to End Tenancy effective July 31, 2016. The Landlord provided a copy of the Mutual Agreement to End Tenancy which provides the names of the Tenants and includes the word "& Occupants". The Mutual Agreement also provides the Tenants with one month of free rent as compensation. The Landlord testified that the Tenant M.P. was informed that signing the Mutual Agreement To End Tenancy would dissolve the tenancy.

The Tenants testified that M.P. signed the agreement after the Notice was issued. The Tenants submit that the Landlord has not provided any evidence to support the reasons within the Notice.

The Tenants also state that the third Tenant P.C. is a Tenant in common and not a co-tenant. They submit that the Tenant pays rent directly to the Landlord. They submit that the mutual agreement should not apply to P.C..

The Tenants provided a copy of an Application For Tenancy dated February 15, 2016, from the Landlord for the new Tenant, P.C., at a monthly rent of \$400.00. The Application For Tenancy states P.C is accepted as a Tenant at the rental unit provided all adult applicants sign the residential tenancy agreement presented by the Landlord. The Application has the letter A/O written in ink at the top of the form.

The Landlord testified that the letters A/O is the coding they use for additional occupant.

Neither party provided me with documentary evidence of a separate written tenancy agreement between the Tenant P.C. and the Landlord.

Section 44 of the Act states that a tenancy ends if the Landlord and Tenant agree in writing to end the tenancy.

*Residential Tenancy Policy Guideline #13 Rights and Responsibilities of co-tenants* states that

*If the Tenant who moves out gives proper Notice to end the tenancy the tenancy agreement will end on the effective date of that Notice, and all Tenants must move out, even where the Notice has not been signed by all Tenants.*

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenants have provided insufficient evidence that P.C. has a separate tenancy agreement with the Landlord. I find that the Tenants entered into an occupant arrangement with P.C. on December 28, 2015, when they agreed to a household rent arrangement. This arrangement was prior to P.C. completing an Application For Tenancy with the Landlord. However, given their testimony that P.C. paid rent to the Landlord directly, I find that P.C. is actually co-tenant.

The Tenants submission regarding the validity of the Notice is irrelevant because Tenant M.P. signed a Mutual Agreement to End the Tenancy on June 8, 2016, and agreed to vacate the rental unit by 1:00 p.m. on July 31, 2016. The Mutual Agreement to End a Tenancy is valid and binding on all the co-tenants and occupants.

Section 55 (2) of the Act states that a Landlord may request an order of possession for a rental unit when the Landlord and Tenant have agreed in writing that the tenancy is ended.

I find that the Landlord is entitled to an order of possession effective at 1:00 p.m. on July 31, 2016. This order may be filed in the Supreme Court and enforced as an order of that Court.

As the Tenants were not successful in their application, I do not grant recovery of the cost for the hearing.

Conclusion

A Tenant signed a Mutual Agreement to End Tenancy effective July 31, 2016, which is an effective Notice to end the tenancy.

The Landlord is granted an order of possession effective at 1:00 p.m. on July 31, 2016, after service on the Tenant.

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: June 24, 2016

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Residential Tenancy Branch