



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNL, LAT

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for more time to file an application to cancel a Notice to End Tenancy; to cancel a Two Month Notice to End Tenancy; and for an Order to allow the tenant to change the locks to the rental unit.

The tenant, the tenant's advocate and one of the landlords 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. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the tenant entitled to more time to file his application to cancel the Notice?
- Is the tenant entitled to an Order to cancel the Two Month Notice to End Tenancy?
- Is the tenant permitted to change the locks of the rental unit?

### Background and Evidence

The parties agreed that this month to month tenancy started on December 01, 2011. Rent for this unit is \$1,050.00 per month due on the 1<sup>st</sup> of each month.

The tenant testified that he was served a Two Month Notice to End Tenancy on April 08, 2016 (the Notice); however, the landlords did not check any of the reasons on the second page of the Notice to inform the tenant why they were ending his tenancy. The tenant testified that he was suffering from a serious medical condition at the time and was not able to file his application within the allowable 15 days.

The tenant testified that while he was suffering from this serious medical condition he was in bed and the landlord posted a Notice of Entry on the door of his rental unit; however, the landlord entered the unit the next day without allowing the three extra days for the Notice of Entry to be deemed served. The tenant seeks an Order to be permitted to change the locks of the rental unit.

The landlord testified that they did forget to check the reason on the second page of the Notice. The landlord testified that their son is either going to move into the unit on a rent to purchase agreement or the unit will be sold.

The landlord testified that with regard to the Notice of Entry to the tenant's unit. They did not post the notice to his door, they knocked on the tenant's door and handed him the Notice.

### Analysis

With regard to the Two Month Notice; I refer the parties to s. 52 (d) of the *Residential Tenancy Act (Act)* which states:

**52** In order to be effective, a notice to end a tenancy must be in writing and must

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy.

As the landlord omitted to provide a reason to end the tenancy, then I find the Notice served upon the tenant on April 08, 2016 was not effective at the time the Notice was served upon the tenant and is therefore cancelled.

With regard to the tenant's application for more time to cancel the Notice, as this Notice was not effective when it served then the time frame permitted under the *Act* for the tenant to file his application to cancel the notice does not apply.

It is important to note here that if the landlord does intend to sell the rental unit then the landlord may only issue a Two Month Notice to End Tenancy under s.49(5) of the *Act* 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:*

*(i) 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;*

*(ii) 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.*

With regard to the tenant's application to be permitted to change the locks to the rental unit; I find that the landlord may or may not have posted a Notice of Entry to the tenant's door, in any event the landlord is required under the *Act* to allow an additional three days on top of the 24 hours before they can enter the rental unit as any Notice of Entry

posted to a door is not considered to be served until three days after it was posted pursuant to s. 90 (c) of the *Act*.

I am not prepared to permit the tenant to change the locks for this single event; however, I do caution the landlord to ensure proper Notice of Entry is provided to the tenant in the future taking into consideration s. 90 of the *Act*.

### Conclusion

The tenant's application is allowed. The Two Month Notice to End Tenancy for Landlords Use of the Property dated April 08, 2016 is cancelled and the tenancy will continue.

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 08, 2016

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Residential Tenancy Branch