



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute codes**

CNC, FF

### **Introduction**

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* for an Order to cancel a Notice to End Tenancy for Cause - Section 47.

Both parties attended the conference call hearing and were given opportunity to present relevant evidence and make relevant submissions. The landlord acknowledged receiving all of the tenant's application and evidence. The landlord further acknowledged they did not submit any document evidence to this matter.

### **Issue(s) to be decided**

Is the landlord's Notice to end valid in the approved form?  
Should the landlord's Notice to End be cancelled? If not,  
Is the landlord entitled to an Order of Possession?

For this type of application, the onus is on the landlord to prove they issued a valid Notice to End in the approved form.

### **Background and evidence**

The relevant evidence in this matter is as follows. It is undisputed that on May 30, 2016 the landlord personally gave the tenant page 1 of a Notice to End Tenancy for Landlord's Use of Property. The landlord claims they personally gave the tenant the second page of the Notice the following day and that it was marked for the reason pursuant to Section 49 (3) of the Act. The tenant denies they received page 2, or that they have ever received a reason from the landlord for the landlord's Notice to End.

### **Analysis**

Section 44 of the Act, states that a tenancy may end if the landlord gives notice to end the tenancy in accordance with Section 49 of the Act.

Section 52 of the Act states as follows: **(emphasis mine)**

**Form and content of notice to end tenancy**

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

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.**

In this matter, I find that the landlord has not proven they gave the tenant a valid or legal Notice to End in concert with the requirements of Section 52 of the Act. As a result, the landlord's Notice to End dated May 30, 2016 is not effective to end this tenancy, and is null and of no effect.

The tenant's application **is granted**.

The tenant is entitled to recover their filing fee of \$100.00.

**Conclusion**

The tenant's application to set aside the landlord's Notice to End is granted, and the tenancy continues.

I Order that the tenant may deduct \$100.00 from a future rent in satisfaction of their filing fee.

The landlord remains at liberty to give the tenant a *valid* Notice to End, in the approved form.

**This Decision is final and binding on both parties.**

*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 05, 2016

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Residential Tenancy Branch