



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, ERP, RP, LAT, O, OLC, PSF, MNDC

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant stated that the landlord was served with the notice of hearing package via Canada Post Registered Mail on July 20, 2016 and again on August 7, 2016 with the submitted documentary evidence. The landlord confirmed receipt of both packages. The landlord served the tenant with the submitted documentary evidence on August 21, 2016 in person. The tenant confirmed receipt of the package. I accept the undisputed affirmed testimony of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act. Both parties are deemed served with the notice of hearing package and the submitted documentary evidence as per section 90 of the Act.

### Preliminary Issue

RTB Rules of Procedure 2.3 states that “if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply.” In this regard I find that the tenant has applied for a monetary order for money owed or compensation for damage or loss, for an order for the landlord to comply with the Act, for an order for the landlord to make repairs, an order for the landlord to make emergency repairs, authorization to change to the locks to the rental unit and for an order for the landlord to provide services or facilities. The tenant provided undisputed affirmed testimony that these claims were unrelated to the landlord’s notice to end tenancy. As these sections of the tenant’s application are unrelated to the main section which is to cancel the notice to end tenancy issued for landlord’s use, I dismiss these sections of the tenant’s claim with leave to reapply.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 2 Month Notice?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant’s claim and my findings are set out below.

This tenancy began on October 31, 2015 on a fixed term tenancy ending on October 31, 2016 as shown by the submitted copy of the signed tenancy agreement dated October 31, 2015. The monthly rent is \$1,200.00 payable on the 1<sup>st</sup> day of each month and a security deposit of \$600.00 was paid on October 31, 2015.

Both parties confirmed that the landlord’s agent served the tenant with the 2 Month Notice dated July 7, 2016 by posting it to the rental unit door on July 7, 2016. The tenant has submitted a copy of the landlord’s proof of service document which states that the tenant was served with the notice posted to the rental unit door on July 7, 2016 with a witness.

The 2 Month Notice sets out an effective end of tenancy date of October 31, 2016 and one reason that it was being given as:

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

The tenant did not provide any details of why he was disputing the 2 Month Notice, only stating that he has no proof that the new owner intends to occupy the rental unit or have a close family member to occupy the rental unit in good faith. The tenant did not dispute any details of the 2 Month Notice dated July 7, 2016.

The tenant submitted as part of his documentary evidence given to him by the landlord's agent, a copy of a written notice dated July 5, 2016 and titled,

**TENANT OCCUPIED PROPERTY- BUYERS NOTICE TO SELLER FOR  
VACANT POSSESSION**

The "Buyers Notice" is dated June 27, 2016 which states that the new owner or a close family member intends in good faith to occupy the premises. The notice also states that the purchaser is requesting vacant possession on October 31, 2016.

Analysis

Section 49(4) of the Act sets out that a landlord may end a tenancy in respect of a rental unit where a close family member of the landlord intends in good faith to occupy the rental unit. Where a tenant applies to dispute a 2 Month Notice, the onus is on the landlord to prove, on a balance of probabilities, the reasons on which the 2 Month Notice is based.

The 2 Month Notice dated July 7, 2016 was served to the tenant with a copy of the proof of service document and a copy of the "Buyers Notice". I find that the 2 Month Notice to be valid and properly served to the tenant based upon the undisputed affirmed evidence of both parties.

The tenant failed to provide any reason to dispute the 2 Month Notice only stating that he was unsure of the documents provided by the landlord. A review of the landlord's "Buyers Notice" shows that it was signed, dated and witnessed on July 5, 2016. The "Buyers Notice" shows that the Buyer has requested in writing vacant possession of the rental premises as per the 2 Month Notice.

Based upon the above noted, the tenant has failed to establish a claim to cancel the 2 Month Notice dated July 7, 2016. The tenant's application is dismissed.

Pursuant to section 55 of the Act, the landlord's 2 Month Notice dated July 7, 2016 is upheld. The landlord is granted an order of possession for October 31, 2016.

### Conclusion

The tenant's application to cancel the 2 Month Notice dated July 7, 2016 is dismissed without leave to reapply.

The landlord is granted an order of possession for October 31, 2016.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court and enforced as an order of that Court.

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: August 31, 2016

---

Residential Tenancy Branch