



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

Landlords: OPL, MNR, MNDC, FF  
Tenant: CNL, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlords sought an order of possession and a monetary order and the tenant sought to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by both landlords and the tenant.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 2 Month Notice to End Tenancy for Landlord's Use and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the landlords are entitled to an order of possession for their own use of the property; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 55, 67, and 72 of the *Act*.

### Background and Evidence

The tenant submitted verbal testimony that he had had rent to own arrangement with the previous owner of the residential property and that since 2013 he had been paying the previous owners of the property \$3,200.00 per month that included rent in the amount of \$1,800.00 per month and the balance going towards taxes and other charges.

He stated that when the new owners took over the property he entered into a verbal tenancy agreement with them for rent in the amount of \$2,000.00 per month beginning on June 1, 2016.

The landlords testified that they never entered into a tenancy agreement with the tenant for any amount of money for any period of time.

The landlords testified that the previous owner issued a 2 Month Notice to End Tenancy for Landlord's Use of Property on May 30, 2016 as per their purchase agreement and that on May 31, 2016 when the new owners took possession of the property they issued a second 2 Month Notice to End Tenancy. Both Notices had effective dates of July 31, 2016.

The landlords submitted into evidence the following relevant documents:

- A copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property issued by the previous owner of the residential property on May 30, 2016 with an effective vacancy date of July 31, 2016 citing that all of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give the Notice because the purchaser or a close family member intends in good faith to occupy the rental unit; and
- A copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property issued by the new and current owners of the residential property on May 31, 2016 with an effective vacancy date of July 31, 2016 citing the rental unit will be occupied by the landlord or a close family member.

The landlords stated that they were never informed how much the rent for the property was except that the previous owners paid the new owners \$6,000.00. The landlords stated that this payment was in recognition that the 2 Month Notice would be effective July 31, 2016 and it represented rent for the months of June and July 2016.

The tenant acknowledged receiving both 2 Month Notices to End Tenancy for Landlord's Use of Property in May 2016. He states he did not dispute either Notice until August 3, 2016 because he was still negotiating.

The tenant submitted that he does not owe the landlords any money for rent because the \$6,000.00 paid by the previous owner to the new owner was for rent until the end of August 2016, based on the rate of \$2,000.00 per month he states the new owners agreed to.

The tenant stated he disputed the new owner's 2 Month Notice because it did not have a second page and therefore it is an invalid notice.

### Analysis

Section 49 of the *Act* allows a landlord to end a tenancy if:

- a. The landlord or a close family member of the landlord intends in good faith to occupy the rental unit; or

- b. The landlord enters into an agreement in good faith to sell the rental unit; all the conditions on which the sale depends have been satisfied; and the purchaser asks the landlord, in writing, to give notice to end the tenancy if the purchaser or a close family member of the purchaser intends in good faith to occupy the rental unit.

Section 49(8) of the *Act* stipulates that a tenant may dispute a notice issued under Section 49 by submitting an Application for Dispute Resolution within 15 days of receiving the notice. Section 49(9) states that if the tenant does not submit an Application for Dispute Resolution within 15 days the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit.

Section 66(1) of the *Act* states the director may extend a time limit established under the *Act* only in exceptional circumstances. Section 66(3) states that the director must not extend the time limit to make an application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the Notice.

As the tenant did not file an Application for Dispute Resolution until August 3, 2016 and the effective dates of both Notices were July 31, 2016, I find I am prohibited from allowing the tenant additional time to submit his Application for Dispute Resolution to dispute either Notice regardless of the reasons for his dispute.

As I cannot extend the time for the tenant to dispute the 2 Month Notice I find the tenant is conclusively presumed to have accepted the tenancy and must vacate the property immediately.

As to the value of rent, I find the tenant has provided no evidence to substantiate his position that he entered into a tenancy agreement with the new owners for a rent amount of \$2,000.00 per month.

Further, I find the tenant's assertion that the agreement was for \$2,000.00 per month and his agreement that the previous owner paid the new owners \$6,000.00 for the months of June, July, and August is unlikely if both landlords issued 2 Month Notices to end the tenancy on July 31, 2016. Rather, I prefer the landlords' submissions that the payment of \$6,000.00 was for the two months of June and July 2016.

Section 51 of the *Act* states that a tenant who receives a notice to end tenancy under Section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

As such, I also find that the tenant is entitled to compensation in the amount of \$3,000.00, the equivalent of 1 month's rent for receiving a 2 Month Notice pursuant to Section 51 and I deduct this amount from the landlords' entitlement of rent owed.

Conclusion

Based on the above, I dismiss the tenant's Application for Dispute Resolution in its entirety.

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$6,100.00** comprised of \$6,000.00 rent owed and the \$100.00 fee paid by the landlord for this application.

I order the landlord must deduct the Section 51 compensation in the amount of \$3,000.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$3,100.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: September 20, 2016

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Residential Tenancy Branch