



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes CNL, OLC, FF

### Introduction

This hearing dealt with the tenants' 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;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Tenant LV, tenant GH (collectively "the tenants") and landlord JH (the "landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. In accordance with sections 89 and 90 of the *Act*, I find that the parties were duly served.

### Preliminary Issue – End of Tenancy

At the outset of the hearing, the parties agreed that on November 21, 2016 the tenants served written notice to the landlord ending the tenancy effective December 1, 2016. Consequently, the tenants are no longer seeking cancellation of the 2 Month Notice and this portion of the tenant's application is dismissed without leave to reapply.

As the tenancy is set to end, and as a landlord's compliance may only be sought in relation to an ongoing tenancy I dismiss this claim as well.

### Preliminary Issue – Amendment of Tenants Application

Tenant LV explained that although the tenants' no longer sought to cancel the 2 Month Notice, the tenants sought a monetary order in "the highest amount allowed in the circumstances" to compensate her for the higher rent she would be paying at her new rental unit.

A party to a dispute resolution hearing is entitled to know the case against him/her and must have a proper opportunity to respond to that case. Since the landlord only learned of the tenants' intent to seek a monetary order during the hearing, I find the landlord did not have a reasonable opportunity to respond to this claim. For this reason, I dismiss the tenants request to amend the application to include a monetary claim.

### Analysis

Section 55 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

Based on the parties testimony and the 2 Month Notice before me, I find the 2 Month Notice complies in form and content. As the 2 Month Notice complies in form and content and as the tenants' application has been dismissed I find that the landlord is entitled to an order of possession, pursuant to section 55 of the *Act*.

### Conclusion

The tenants' entire application is dismissed without leave to reapply.

An order of possession is granted to the landlord effective **two (2) days 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: November 30, 2016

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Residential Tenancy Branch