



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This is an application brought by the tenant(s) requesting an order canceling a one-month Notice to End Tenancy, and requesting recovery of their \$100.00 filing fee

Some documentary evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

The parties were affirmed.

### Issue(s) to be Decided

The issue is whether or not to cancel or uphold a one-month Notice to End Tenancy, and whether to order recovery of the \$100.00 filing fee.

### Background and Evidence

The parties agree that on January 3, 2017 the landlord served the tenants with a one-month Notice to End Tenancy, on which he had written "we want to move in ourselves"

The tenants are disputing this notice, because the Residential Tenancy Act requires the landlord to give a two month Notice to End Tenancy if they're planning to move into the rental unit.

The landlord testified that he gave the one month Notice to End Tenancy as he was not aware of the requirement to give a two month Notice to End Tenancy.

### Analysis

Section 49 of the Residential Tenancy Act does allow the landlord to end the tenancy if the landlord fully intends to move into the rental unit, however the tenants are correct that the notice must be a two month Notice to End Tenancy, and must be on the approved form.

In this case, the landlord failed to give the required two months notice, and failed to use the approved form, and therefore it is my decision that I will cancel the one month Notice to End Tenancy that was given to the tenants, and I allow the tenants request for recovery of the \$100.00 filing fee.

### Conclusion

I hereby order that the one-month Notice to End Tenancy that is dated January 3, 2017 is hereby canceled and this tenancy continues.

I further order that the tenants may deduct \$100.00 from the February 2017 rent, to cover the cost of their filing fee.

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: January 30, 2017

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Residential Tenancy Branch