



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

This hearing dealt with a tenant's Application for Dispute Resolution (the "Application") under the Residential Tenancy Act (the "Act") for:

- an order to cancel the landlord's Two Month Notice To End Tenancy for Landlord's Use of Property (the "Two Month Notice"); and
- recovery of the tenant's filing fee for their application from the landlord.

The landlord and the tenant appeared at the teleconference hearing and gave affirmed testimony. Both the landlord and tenant appeared with advocates. During the hearing the landlord, tenant and their advocates were given a full opportunity to be heard, to present sworn testimony and make submissions. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

### Issue(s) to be Decided

- Is the tenant entitled to cancellation of the landlord's Two Month Notice?

### Background and Evidence

The undisputed testimony established that a tenancy started 15 years ago when the tenant moved into a trailer on the landlord's private property. There is no written tenancy agreement. Rent in the amount of \$400.00 is due on the first day of each month. The landlord also resides on the property.

The landlord issued a Two Month Notice dated November 27, 2016, with an effective move out date of February 1, 2016. The landlord served the tenant with a copy of the Two Month Notice in person by leaving a copy with the tenant on November 28, 2016. The tenant confirmed these details.

The landlord's reasons set out in the Two Month Notice are as follows:

- The rental unit will be occupied by the landlord or the landlord's close family member;
- The landlord has all the necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

The landlord testified that she wishes to remove or demolish the trailer so as to build a home where the trailer is located. The landlord testified that she cannot obtain a building permit for the new home so long as the trailer is on the property. The landlord intends on removing the trailer, however, the landlord obtained a demolition permit in case the trailer fell apart in the attempt. The landlord testified that no permits are necessary to move the trailer as it is not a fixed structure.

The tenant challenged the Two Month Notice on the basis that the landlord did not have the demolition permit when the Two Month Notice was given. The tenant pointed out that the demolition permit was obtained on December 14, 2016.

The tenant also challenged the Two Month Notice on the basis that the landlord will be demolishing the unit and not "occupying" it.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows.

Section 49 of the *Act* allows a landlord to end a tenancy if the landlord intends in good faith to:

- move themselves, or allow a close family member to move into the unit; or
- substantially renovate or demolish the rental unit, with all required permits and approval, or convert it to another use, including a caretaker's unit, or convert it to a strata unit.

Policy Guideline #2 explains the 'good faith' requirement as requiring honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy.

I find that there is sufficient evidence that the landlord honestly intends to occupy the trailer for the purpose of demolishing it or removing it so as to build another home on the property to move into. I find that there is insufficient evidence that the landlord has

another purpose or ulterior motive. I find that there is sufficient evidence that the work to complete the upgrades requires the tenant to vacate the unit.

I do not find the fact that the landlord obtained a demolition permit after service of the Two Month Notice sufficient evidence to doubt the landlord's good faith or invalidate the Notice.

Based upon the foregoing, I find that the tenant is not entitled to cancellation of the Two Month's Notice. Therefore, I dismiss the tenant's application.

When a tenant's application to dispute a landlord's notice to end a tenancy is dismissed, s.55 of the *Act* requires me to grant an order of possession if the landlord's notice to end a tenancy complies with section 52 of the *Act*.

Based on the above testimony and evidence, I find that the Two Month Notice complies with section 52 of the *Act*. As a result, I find the landlord is entitled to an order of possession.

As the tenant's application is dismissed, I find that the tenant is not entitled to recovery of the filing fee.

### Conclusion

The tenant's application is dismissed and the Two Month Notice is upheld.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: February 07, 2017

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Residential Tenancy Branch