



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation for loss – Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

At the onset of the hearing it was noted that no documentary evidence had been provided by the Landlord. The Landlord stated that she provided as evidence a letter dated March 30, 2017 from the purchaser and that a copy of this letter was given to the service office to forward to the Residential Tenancy Branch on May 8, 2017. The Tenant confirms that she received a copy of that letter. As the Tenant was able to read the contents of that letter, I accepted the oral evidence of that letter, with its contents noted below and continued with the hearing.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on April 1, 2011. Rent of \$978.00 is payable on the 3<sup>rd</sup> day of each month. At the outset of the tenancy the Landlord collected \$400.00 as a security deposit. On April 10, 2017 the Landlord served the Tenant in person with a two month notice to end tenancy for landlord's use (the "Notice"). The reason set out on the second page of the Notice indicates that the purchaser has asked the Landlord to end the tenancy as the purchaser or a close family member intends to occupy the rental unit.

The Landlord states that the purchaser will obtain possession of the unit on July 5, 2017. The Landlord she obtained the letter dated March 30, 2017 from the purchaser in which the purchaser states that it intends to use the unit as a family principle residence. This letter is not signed. The Landlord states that the property contains three units however the Landlord has no idea who will occupy the rental unit or which unit will be occupied by the purchaser. The Landlord states that she does not know the purchaser and does not know why the letter is not signed.

The Tenant's submissions indicate that the purchaser may have other plans for the unit other than being occupied by the purchaser or a close family member of the purchaser.

### Analysis

Section 49(5) of the Act provides that a landlord may end a tenancy in respect of a rental unit if, inter alia, the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:

- (i) the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit;
- (ii) the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

It is unknown if the purchaser is an individual or a family corporation. Given that there are three units on the property, I note further that the letter does not indicate which unit on the property will be occupied by the purchaser or family member and does not indicate whether the family member intending to occupy the rental unit is a “close family member of the purchaser” or the purchaser itself. This does not support a good faith intention on the part of the purchaser. Regardless of these shortfalls however as the letter from the purchaser is not signed, I find that the letter does not meet the requirements of being in writing. The Tenant is therefore entitled to a cancellation of the Notice and the tenancy continues until ended in accordance with the Act.

As the Tenant has been successful with its application I find that the Tenant is entitled to recovery of the \$100.00 filing fee and the Tennant may deduct this amount from future rent in full satisfaction of this entitlement.

#### Conclusion

The Notice is cancelled.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims 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: May 31, 2017

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Residential Tenancy Branch