



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1104719 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL

### Introduction

On May 2, 2017, the Tenant submitted an Application for Dispute Resolution asking to cancel a 2 Month Notice to End Tenancy for Landlord Use of Property.

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Landlord testified that she received documentary evidence from the Tenant.

The Residential Tenancy Branch did not receive any documentary evidence from the Landlord prior to the hearing.

### Issues to be Decided

- Should the 2 Month Notice to End Tenancy be cancelled?
- Is the Landlord entitled to an order of possession?

### Background and Evidence

The Tenant testified that this tenancy began in February 2010.

The Tenant previously participated in two dispute resolution hearings with a previous Landlord of the property. On January 19, 2016, the Landlord was granted an order of possession effective January 31, 2016.

The Tenant and the previous Landlord reached an agreement that permitted the Tenant to remain in a rental unit at the rental property.

The rental property was subsequently sold on March 1, 2017, and the new owner has issued the Tenant a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated April 20, 2017.

The reason for ending the tenancy in the 2 Month Notice states:

*The Landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.*

The 2 Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the Notice within the required timeframe.

The Landlord testified that the rental property has 22 units and that she reviewed the units to determine what renovations or improvements are needed. She testified that as units become available, she uses the opportunity to renovate the flooring and interior paint.

The Landlord testified that she entered the Tenant's unit and identified that the carpets need to be replaced and the unit needs to be painted. She testified that she is not sure whether or not the kitchen needs to be renovated. She testified that the Tenant's deck needs to be cleaned. The Landlord testified that the Tenant needs to be removed so that the unit can be cleaned and renovated.

The Landlord testified that the rental property is becoming a non-smoking property, and the Tenant cannot be offered a new unit because he regularly smokes marijuana in his unit.

In response, the Tenant testified that he has been living there for close to 10 years and except for his carpet, his apartment is fine. He submitted that the Landlord should rent him another rental unit.

The Tenant submitted that the Landlord is obligated to comply with an agreement made on December 6, 2016, made with the previous Landlord to provide him with a rental unit. The Tenant testified that there is an active BC Human Rights complaint filed and that the agreement was an interim agreement.

### Analysis

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

I accept the Landlords testimony that she is renovating the rental units to upgrade the property.

The Landlord testified that the renovations require the unit to be vacant but did not elaborate on the reasons why the rental unit must be vacant. The Landlord did not provide any documentary or photographic evidence from herself, or trades people performing the work to support that the rental unit must be vacant in order to perform the work. The Landlord testified that she is painting and replacing the flooring.

I find that the renovations contain no major plumbing or structural changes.

While I accept the Landlord`s testimony that she is renovating the rental units, I find there is there is insufficient evidence from the Landlord to establish that the repairs are substantial enough to require the rental unit to be vacant.

I find that the Landlord provided insufficient evidence to support the reason to end the tenancy.

I cancel the 2 Month Notice to End Tenancy For Landlord`s Use Of Property dated April 20, 2017.

The tenancy will continue until ended in accordance with the Act.

As I find that the Landlord provided insufficient evidence to support the reason to end the tenancy, I have not further considered whether or not the Landlord is required to

comply with any interim agreement made on December 6, 2017, between the previous Landlord and the Tenant.

Conclusion

The Tenant's Application to cancel the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated April 20, 2017, is granted. The 2 Month Notice is cancelled.

The tenancy will continue until ended in accordance with the Act.

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: June 13, 2017

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Residential Tenancy Branch