



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

On May 8, 2017, the Tenants submitted an Application for Dispute Resolution asking that a 2 Month Notice to End Tenancy for Landlord Use of Property ("the Notice") be cancelled, and to recover the filing fee for the Application.

The matter was set for a conference call hearing. The Tenants and Landlord 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.

### Issues to be Decided

- Should the 2 Month Notice be cancelled?
- Are the Tenants entitled to recover the filing fee?

### Background and Evidence

The Landlord and Tenant both testified that the tenancy began on April 1, 2017, as a one year fixed term tenancy. Rent in the amount of \$1,100.00 is to be paid by the first day of each month. The Tenants paid the Landlord a \$650.00 security deposit.

The Tenants provided a copy of the tenancy agreement. The name of the Landlord listed on the tenancy agreement is Ms. N.K. Ms. N.K. testified that she entered into the fixed term tenancy agreement with the Tenants.

The Landlord, Ms. N.K. testified that she did not issue the 2 Month Notice To End Tenancy For Landlord's Use Of Property and she does not support the Notice. She testified that a co-owner Mr. W.K. issued the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated May 6, 2017.

The Landlord Mr. W.K. failed to attend the hearing. The Tenants testified that they served Mr. W.K. with the Notice of Hearing using registered mail on May 11, 2017. The Tenants provided a copy of the registered mail tracking number as proof of service.

The Tenants disputed the Notice on May 8, 2017.

### Analysis

Section 49 (2) of the Act states that if the tenancy agreement is a fixed term tenancy agreement, a landlord may end a tenancy by giving notice to end the tenancy effective not earlier than the date specified as the end of the tenancy.

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

The Landlord who issued the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated May 6, 2017, was served with Notice of the hearing and failed to attend the hearing to support the reason to end the tenancy.

The 2 Month Notice To End Tenancy For Landlord's Use Of Property dated May 6, 2017, is set aside. The tenancy will continue until ended in accordance with the Act.

As the Tenants were successful in their application, I award them the \$100.00 filing fee. The Tenants are authorized to deduct \$100.00 from one (1) future rent payment.

### Conclusion

The Landlord who issued the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated May 6, 2017, failed to attend the hearing to support the reason to end the tenancy. The 2 Month Notice To End Tenancy For Landlord's Use Of Property dated May 6, 2017, is set aside.

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

As the Tenants were successful in their application, I award them the \$100.00 filing fee. The Tenants are authorized to deduct \$100.00 from one (1) future rent payment.

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 20, 2017

---

Residential Tenancy Branch