



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAN KEI ENTERPRISES  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNL

### **Introduction**

Only the tenant/applicant and his advocate attended the hearing and gave sworn testimony. They confirmed the Notice to End Tenancy dated May 31, 2017 to be effective July 31, 2017 was served by posting it on his door. I find the Notice is deemed to be received on June 3, 2017 pursuant to section 90 of the Act. The effective date on the Notice then is automatically corrected to August 31, 2017 pursuant to section 53 of the *Residential Tenancy Act* as a Notice to End Tenancy for landlord's use of the property must give a full two months' notice and end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement according to section 45 (1) (b). The legal advocate of the tenant /applicant gave evidence that they served the Application for Dispute Resolution on June 7, 2012 by registered mail (number provided). I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for landlord's use of the property pursuant to section 49

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that they need to end the tenancy for the stated reasons? Or is the tenant entitled to any relief?

### **Background and Evidence**

Only the tenant and his advocate attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that

the tenancy commenced February 8, 2012, rent is \$426 a month and a security deposit of \$200 was paid in July 2011. The landlord served a Notice to End Tenancy for the following reasons:

- 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 intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property.

The tenant said he does not believe renovations will be performed in such a way that the rental unit would have to be vacant. He also does not think permits have been issued. He said he heard that a plumbing permit had been applied for in June 2017 but it has not been issued. He said he has not taken his free month's rent pursuant to the section 49 Notice.

Included with the evidence is a copy of the Notice to End Tenancy. The landlord provided no documents to support the Notice and did not attend the hearing. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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**Analysis:**

The onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant. I find the landlord provided no documents in support of their Notice to End Tenancy and did not attend the hearing.

I find the evidence of the tenant credible that the necessary permits have not been issued and that he does not believe his unit has to be empty for renovations. I set aside the Notice to End Tenancy dated May 31, 2017.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is successful. The Notice to End Tenancy dated May 31, 2017 is hereby set aside and **cancelled**. **The tenancy continues.** No filing fee was involved.

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: July 25, 2017

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Residential Tenancy Branch