



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”) issued on April 30, 2017.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving sufficient evidence to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Should the Notice issued on April 30, 2017, be cancelled?

### Background and Evidence

The tenancy began on June, 1, 2007.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on July 31, 2017.

The reason stated in the Notice was that:

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)

The landlord testified that they currently live in the upper portion of the house and rent the basement. The landlord stated that the upper portion of the house is a split level and they are having mobility issues going up and down the stairs. The landlord stated that they are also having difficulties cleaning the house as it is now too large for them.

The landlord testified that they want to move into the basement as a result of having mobility difficulties. Filed in evidence is a letter from the landlord's doctor, confirming mobility difficulties.

The landlord testified that they are agreeable to extend the effective date of the Notice to September 30, 2017, to give the tenants more time to find rental accommodations.

The tenant testified that the landlord told them that they were planning to move to the basement in the future. The tenant stated that they were then served with the Notice one month later.

### Analysis

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

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to support the reason stated in the Notice.

In this case, the landlord has mobility difficulties and is currently living in the split level portion of the home with stairs. The landlord wants to move to the basement unit, due to their mobility issues. I find this is reasonable, and is supported by a letter from their doctor.

I find the Notice issued on April 30, 2017 has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenants' application to the Notice issued on April 30, 2017.

In this case, the landlord has agreed to extend the effective vacancy date in the Notice to September 30, 2017. The tenancy will end on September 30, 2017 in accordance with the Act.

I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective on the above extended vacancy date.

Conclusion

The tenants' application to cancel the Notice, issued on April 30, 2017 is dismissed. The landlord is granted an order of possession.

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 13, 2017

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Residential Tenancy Branch