



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      CNL FF

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

### Issues

Should the 2 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Are the tenants entitled to recover the filing fee for this application?

### Background and Evidence

The landlord served the tenants with a 2 Month Notice on May 31, 2017. The landlord did not submit a copy of the 2 Month Notice or any other evidence in support of the application. The landlord also testified that he had only issued the 2 Month Notice as the tenants had advised him they were looking to buy a townhouse and they needed more time to vacate the rental unit.

The tenants are disputing the 2 Month Notice arguing that it was not issued in good faith as the landlord just wanted to increase the rent.

## Analysis

Section 49 of the Act contains provisions by which a landlord may end a tenancy for landlord's use of property by giving notice to end tenancy. Pursuant to section 49(8) of the Act, a tenant may dispute a 2 Month Notice by making an application for dispute resolution within fifteen days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 2 Month Notice. Section 49(7) requires that a notice must comply with section 52 [form and content of notice to end tenancy].

Section 52 of the Act states as follows:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

As the landlord did not submit a copy of the 2 Month Notice as evidence, I am unable to confirm if the 2 Month Notice complies with the form and content requirements of Section 52 of the Act.

Further, the ground for issuing the 2 Month Notice as explained by the landlord is not a valid ground for ending the tenancy under section 49 of the Act.

The tenants' application to cancel the 2 Month Notice is allowed.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application from the landlord. The tenants may reduce a future rent payment in the amount of \$100.00.

Conclusion

I allow the tenants' application to cancel the landlord's 2 Month Notice, dated May 31, 2017, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

The tenants may reduce a future rent payment in the amount of \$100.00.

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: August 18, 2017

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Residential Tenancy Branch