



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction:**

Both parties attended the hearing and the tenant confirmed service of the Two Month Notice to End Tenancy dated June 10, 2017 to be effective August 31, 2016 by posting it on his door. I find the effective date on the Notice is automatically corrected to August 31, 2017 pursuant to section 53 of the *Residential Tenancy Act* (the Act) as a two month Notice to End Tenancy must give a full two month's notice and according to section 49(2) end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement. The tenant served their Application by registered mail. 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; and
- b) An Order that the landlord comply with the Act;
- c) For a rent rebate as compensation for repairs not done and disturbance of his reasonable enjoyment because of this.

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

Has the landlord proved on the balance of probabilities that they need in good faith to end the tenancy in order to have the property for their own use or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Has the tenant proved on the balance of probabilities that he is entitled to a rent rebate for repairs not done and disturbance of his reasonable enjoyment?

### **Background and Evidence**

Both parties 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 in June 2015, rent is \$1100 a month and a security deposit of \$500 was paid. The landlord served a Notice to End Tenancy for the following reasons:

*The rental unit will be occupied by the landlord or the landlord's close family member.*

He testified that his son and family intend to fix up and move into the rental unit. The tenant said he was withdrawing his objection to the Notice to End Tenancy. He said he vacated two weeks ago and has paid no rent for August 2017. The landlord said there are still people living in the unit. The tenant clarified that they were friends whom he had allowed to live there because of their problems. However he said they would be gone by August 31, 2017. I clarified to the tenant that he is responsible for any rent debts accrued by persons whom he has permitted on the premises. However he has the month of August rent free pursuant to the Two Month Notice to End Tenancy. The security deposit is still in trust and the parties were advised of their obligations to deal with it under section 38 of the Act.

The property was described as a 100 acre property with the house trailer occupying about one acre. The landlord owns the trailer. The tenant is claiming a rent rebate as compensation as follows:

1. \$304.28: vehicle repair due to rats chewing through wires in his vehicle. He said it was parked outside and he had told the landlord about the rat problem three months prior.
2. \$1800: for \$50 month rebate x 36 months for moisture and mold problems. He said he told the landlord verbally only. The landlord denied ever hearing about this from the tenant.
3. \$4500: for 9 months rebate x \$500 for rats in the home. He said the rats came in through holes, significantly disturbed his enjoyment of the home as they got into everything and even got close to his face some mornings. He said he gave verbal notice of this problem in October 2016 when he paid rent. The landlord said he kept cats out there to control rats. He said the tenant kept his doors open all the time as he barbequed often. He said he told the tenant that he would hire pest control or give him poison but the tenant did not accept. The tenant denied the offer. He said the cats died for the landlord did not feed them, he barbequed for there was no stove but did not leave doors open as it was too cold. He said the landlord asked him for the name of a pest control company but he did not know one and nothing was ever done.
4. \$1826: (11 months x \$166 month) for the poor condition of the bathroom and water. The tenant said there was a crack in the shower floor so he could not stand in it. The iron in the water was so severe that he had to clean constantly and it even discoloured his hair. He said he informed the landlord verbally of the

problem about 15 months ago but nothing was done. The landlord said there was no mention or discussion of this problem.

Included with the documentary evidence is a copy of the Notice to End Tenancy, the monetary claim of the tenant, an invoice for vehicle repair, and one letter dated June 3, 2017 noting the rodent problem that he began complaining about in November 2016 and disputing a purported rent increase. He requested the problems be dealt with by June 16, 2017. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

**Analysis:**

As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant. As the tenant no longer disputes the Two Month Notice to End Tenancy for landlord's use of the property and has moved himself, I dismiss this portion of his Application. However, as he has permitted occupants to live in the home, I find the landlord entitled to an Order of Possession effective August 31, 2017. It was discussed with the tenant that he remains liable as long as the occupants reside in the property as he invited them.

In respect to the claim for compensation of the tenant, I find awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

**Director's orders: compensation for damage or loss**

**67** Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 67 of the Act does *not* give the director the authority to order a respondent to pay compensation to the applicant if damage or loss is not the result of the respondent's non-compliance with the Act, the regulations or a tenancy agreement.

I find section 32 of the Act provides that a landlord must maintain residential property in a state of decoration and repair that complies with health, safety and housing standards required by law and makes it suitable for occupation by a tenant. I find the weight of the evidence is that the landlord violated the Act as the trailer was infested with rats compromising the health, safety and enjoyment of the tenant. I find the evidence is that the landlord knew of this problem from November 2016 but did not eradicate the infestation. Although he testified he relied on cats, I find this was not successful.

Due to the neglect of the landlord in addressing the rat infestation, I find the tenant suffered significant disturbance of his reasonable enjoyment contrary to section 28 of the Act from November 2016 when the landlord agreed it had been discussed. I find the tenant entitled to a rebate of rent. Although the tenant requests a rebate of half of each month's rent, I find this is excessive as he still had a home with reasonable amenities for these months. I find him entitled to a rebate of approximately 20% of his rent from November 2016 to July 2017 or \$1800(9 months x \$200). In respect to his claim for repair to his vehicle caused by rats chewing wires, I find the Act does not require a landlord to eradicate rats from outdoors where the vehicle was parked. I dismiss his claim for vehicle repair costs.

In regard to the tenant's claim for compensation for moisture/mould and bathroom deficiencies, I find insufficient evidence that the landlord was informed of these problems or neglected to repair them. As I find insufficient evidence that the tenant's problems in these areas were caused by act or neglect of the landlord, I find him not entitled to compensation from the landlord for these items. I dismiss this portion of his claim.

For the above reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy is terminated on August 31, 2017 as automatically corrected under section 53 of the Act and the landlord is entitled to an Order of Possession.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed. The tenancy is at an end on August 31, 2017 (as corrected). An Order of Possession is issued to the landlord effective August 31, 2017.

I find the tenant entitled to a monetary order for \$1800 for the reasons stated above. No filing fee was paid so none is awarded.

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 24, 2017

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Residential Tenancy Branch