



# 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 the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 2 Month Notice to End Tenancy For Landlord's Use of Rental Property, pursuant to section 49;

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

### Issues

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

### Background & Evidence

The rental unit is a mobile home owned by the landlord. The tenancy began approximately 2 ½ years ago. The current monthly rent is \$550.00 per month and the tenant paid a security deposit of \$275.00 at the start of the tenancy.

The landlord served the tenant with a 2 Month Notice on August 3, 2017. The Notice has an effective date of October 31, 2017. The ground for issuing the 2 Month Notice is the landlord intends to occupy the rental unit himself.

The landlord testified the tenant is doing a grow-op and caused various damage to the rental unit. The landlord testified that because of all the repair work required he intends to just move-in himself and stay there to get the rental unit all fixed up again. The supporting evidence submitted by the landlord was all in respect to the alleged damage and grow-op.

The tenant is disputing the 2 Month Notice on the grounds that it was not issued in good faith. The tenant does not believe the landlord intends to occupy the rental unit. The tenant argues that any repair/damage issues can easily be resolved.

### 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.

Further, 2 Month Notices have a good faith requirement. *Residential Tenancy Policy Guideline #2* "Good Faith Requirement when Ending a Tenancy" provides the following guidance:

A claim of good faith requires honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy.

If the good faith intent of the landlord is called into question, the burden is on the landlord to establish that they truly intend to do what they said on the Notice to End Tenancy. The landlord must also establish that they do not have another purpose that negates the honesty of intent or demonstrate they do not have an ulterior motive for ending the tenancy.

I find that the evidence supports that the landlord does not intend in good faith to occupy the rental unit himself. The landlord's own testimony was that he only intends to stay in the rental unit to get it fixed up again. The rest of the testimony and evidence submitted by the landlord was in respect to damage to the rental unit and the alleged grow-op. These are not valid reasons to end the tenancy pursuant to a 2 Month Notice for Landlord's Use of Property. I find the landlord does not truly intend to occupy the rental unit other than perhaps for a very short term basis.

The tenants' application to cancel the 2 Month Notice is allowed and the 2 Month Notice dated August 3, 2017 is hereby cancelled.

### Conclusion

This tenancy continues until it is ended in accordance with the *Act*.

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: November 08, 2017

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Residential Tenancy Branch