



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LRE, MNDCT, OLC, CNL,

### Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy that was given for landlord use, requesting an order for the landlord to comply with the act, requesting a monetary order, and requesting an order to suspend or set conditions on the landlord's right to enter the rental unit or site.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

### Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicant has put on this application.

Section 2.4 of the rules of procedure states:

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

In this case it is my finding that not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with request to cancel the Notice to End Tenancy, the request for an order to suspend the landlords right of entry, and the request for an order for the landlord to comply with the act, and I dismiss the remaining claims with liberty to re-apply.

### Background and Evidence

The parties agree that this tenancy began on February 1, 2015 and that the present monthly rent is \$963.00.

The parties also agree that, at this point, there is no rent outstanding.

The landlord testified that, on December 26, 2017, a two month Notice to End Tenancy was posted on the tenant's door.

The landlord testified that the two month Notice to End Tenancy has been given because the landlord's father is in failing health and they want him to move closer so they can assist him with his health issues, and daily living.

The landlords further testified that this notice has been given in good faith, and they fully intend to have the landlord's father move into the rental unit on permanent basis, and certainly for at least six months.

The tenant testified that she believes the Notice to End Tenancy should have been canceled as she does not believe the reasons given by the landlords; however she has subsequently decided to accept the notice and has given the landlord the required 10 day notice that she will be vacating the rental unit on February 4, 2018.

The tenant further testified that she has provided a check to cover all the rent to the end of February 4, 2018, and therefore she believes the landlords should be returning one full month rent in the amount of \$963.00 as for compensation for having received the two month notice.

The landlords testified that they have received the check to cover rent to February 4, 2018 and therefore they will arrange to return the equivalent of one month rent, in the amount of \$963.00 to the tenant as soon as possible.

### Analysis

As stated above the landlord has served the tenant with a two month Notice to End Tenancy for landlord use, which the tenant had disputed, however at today's hearing the tenant stated that she is now withdrawing her dispute of that notice, as she fully intends to vacate the rental unit on February 4, 2018, having given the landlord 10 days written notice to do so.

Section 55(2)(b) states:

55(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

- (a) a notice to end the tenancy has been given by the tenant;
- (b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired

In this case, the tenant originally did dispute the Notice to End Tenancy, however now having withdrawn that dispute section 55(2)(b) above would apply.

Further, sections 55(3) & (4)

55(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

(4) In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 *[Resolving Disputes]*,

- (a) grant an order of possession

In this case I have examined the Notice to End Tenancy and it is my finding that it complies with section 52 of the Act and it is my decision therefore that I will issue an Order of Possession to the landlord for 1:00 p.m. on February 4, 2018.

Conclusion

Having determined that the landlord's notice to end tenancy complies with section 52 of the Act, I have issued an Order of possession, pursuant to Section 55 of the Act, enforceable at 1:00 p.m. on February 4, 2018.

As stated previously the tenant's monetary claim is dismissed with leave to reapply.

Further since this tenancy will be ending shortly I make no orders restrict the landlord's right of entry.

I do however order that the landlords comply with section 51 of the Residential Tenancy Act and ensure that they return the equivalent of one month's rent to the tenant.

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: January 29, 2018

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Residential Tenancy Branch