



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BAYSHORE CANADA VENTURES  
and [tenant name suppressed to protect privacy]

## **REVIEW HEARING DECISION**

Dispute Codes CNL FFT

### Introduction

On December 22, 2017, a teleconference hearing occurred with respect to applications from both tenants residing within the address shown above. Tenant DS occupies the upstairs unit and Tenant RM occupies the downstairs unit. Both of the tenants applied pursuant to the *Residential Tenancy Act* (the *Act*), and their claims were joined together as they both sought the cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use (the 2 Month Notices) pursuant to section 49; and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

As was noted in the original arbitrator's December 22, 2017 decision, the only people attending that original hearing were two representatives of the landlord. In the absence of the two tenants, the original arbitrator dismissed the tenants' applications without leave to reapply and issued a two day Order of Possession to the landlords.

Both tenants subsequently applied for a review of the original decision, maintaining that they were provided incorrect telephone numbers by the Residential Tenancy Branch to connect with the original hearing. In review consideration decisions of January 5 and January 12, 2018, another arbitrator appointed pursuant to the *Act* allowed the tenants' applications for review consideration and scheduled both applications for a review hearing. The original decision and the two Orders of Possession were suspended pending the outcome of this review hearing.

In accordance with section 79 of the *Act* and the powers delegated to me, I was appointed responsibility for conducting this review hearing.

Both parties attended this review hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As both tenants confirmed that they were handed the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) on September 30, 2017, I find that the tenants were both duly served with separate 2 Month Notices on September 30, 2017, in accordance with section 88 of the *Act*.

As Landlord MC (the landlord) confirmed that the corporate landlord (the corporate landlord) was served with the Review Consideration Decision, and copies of the tenants' dispute resolution hearing package, including notification of this review hearing and the tenants' written evidence by at least January 16, 2018, I find that the corporate landlord was duly served with this information in accordance with sections 88 and 89 of the *Act*. The corporate landlord supplied no written evidence in this matter.

### Issue to be Decided

Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Are the tenants entitled to recover their filing fees for this application from the landlord?

### Background and Evidence

The landlord's representatives testified that the corporate landlord bought this property about a year and a half before this hearing. The tenant on the lower level gave undisputed sworn testimony that they moved into this rental unit in August 2015, and that the current monthly rent is \$650.00, payable in advance on the first of each month. The tenant on the upper level gave undisputed sworn testimony that they moved into this rental unit in 2010, and that their monthly rent is set at \$1,032.00, payable in advance on the first of each month. All parties agreed that the tenants have continued to pay their rent since the 2 Month Notice was issued, and that the landlord has continued to accept these payments.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

All parties agreed to a final and binding resolution of their dispute based on the following terms:

1. The corporate landlord agreed to withdraw the existing 2 Month Notice for Landlord's Use of Property.
2. The corporate landlord agreed that they will not list the property for sale until at least April 1, 2018.
3. The parties agreed that in the event that this property is listed for sale, that the corporate landlord will provide at least 24 hours notice to show the property to prospective purchasers, and that the tenants will allow access to the property for this purpose upon receiving this notice.

4. All parties confirmed that the terms of settlement outlined above constituted a final and binding resolution of all issues arising out of the tenants' applications and arising out of this tenancy at this time and that they did so of their own free will and without any element of force or coercion.

### Conclusion

In accordance with section 82(3) of the *Act*, I set aside the previous decision of December 22, 2017 and the Orders of Possession issued on that date, which are no longer of any effect.

To implement the settlement outlined above, I order that the 2 Month Notices of September 30, 2017, provided to both tenants are cancelled and of no force or effect. This tenancy continues until ended in accordance with the *Act*.

In accordance with the settlement terms, I order the corporate landlord to refrain from listing the property for sale until at least April 1, 2018.

In the event that the property is listed for sale as of April 1, 2018, or later, I order the corporate landlord to provide the tenants with 24 hours notice of any showing of the property to prospective purchasers.

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: February 2, 2018

---

Residential Tenancy Branch