



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNL RR FF

### **Introduction**

Both parties, the landlord by agent (who is hereinafter called 'the landlord') attended the hearing and gave sworn testimony. They confirmed the Two Month Notice to End Tenancy for Landlord's use of the property dated November 7, 2017 to be effective February 1, 2018 was served by posting it on her door. The tenant /applicant gave evidence that they served the Application for Dispute Resolution by registered mail and the landlord agreed they received it. 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;
- b) To recover the filing fee for this application.

### **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?

### **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 October 2015, rent is \$900 a month and a security deposit of \$450 was paid. The landlord served a Notice to End Tenancy under section 49 of the Act for the following reasons:

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

The parties testified that they had attempted to make a Mutual Agreement to End Tenancy through the tenant's lawyer but it was unsuccessful. However both parties said they wanted to end the tenancy as it had been stressful for them. After discussing the matter, they freely and voluntarily entered into a settlement agreement with the following terms:

### **Settlement Agreement:**

1. **The parties agree the tenant is entitled to one month free rent under the section 49 Notice to End Tenancy. If she does not vacate as agreed, she is not entitled to the one month's free rent (\$900).**

2. The tenant agrees she will vacate by 12 noon on February 28, 2018 and have the unit cleaned, including cleaning of the carpets.
3. The landlord agrees to refund the rent paid for February 2018 on February 28, 2018 by e-transfer provided the tenant has vacated on that date.
4. The tenant will receive a monetary order for \$900 which is only enforceable if she has vacated and the landlord did not pay the refund of rent.
5. The landlord will receive an Order of Possession effective February 28, 2018 at 1:00 p.m.
6. The parties agree that the Notice to End this tenancy was issued under section 49 of the Act for landlord's use of the property.

**Analysis:**

Pursuant to the above noted Settlement Agreement, I find the landlord is entitled to an Order of Possession effective February 28, 2018 at 1 p.m. I find the tenant entitled to a monetary order for \$900 which is only enforceable if the landlord does not refund the \$900 rent for February 2018 as agreed.

**Conclusion:**

Pursuant to the Settlement as noted above, I find the landlord entitled to an Order of Possession effective February 28, 2018. I find the tenant entitled to a Monetary Order for \$900 which is only enforceable if the landlord does not refund the \$900 rent for February as agreed. As the matter is settled, no filing fee 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: February 06, 2018

---

Residential Tenancy Branch