



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding OVIEDO DEVELOPMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      CNL OLC

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), pursuant to section 49, an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application. As all parties confirmed receipt of each other's evidentiary materials, I find that these were duly served in accordance with section 88 of the *Act*.

As the tenant confirmed receipt of the 2 Month Notice, dated November 29, 2017, I find that this document was duly served to the tenant in accordance with section 88 of the *Act*.

### **Issues(s) to be Decided**

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

Is the tenant entitled to an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement?

### **Background and Evidence**

This month-to-month tenancy began on November 29, 2016. Monthly rent is set at \$1,100.00, payable on the first day of each month. The landlord collected, and still holds, a security deposit of \$550.00. The tenant continues to reside in the rental home.

The landlord issued the 2 Month Notice on November 29, 2017 for the following reason:

- the Landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

The landlord provided the following background for why they had decided to issue the 2 Month Notice. KD testified that the plan was to demolish the home, and this was made clear to the tenant before this tenancy had begun. The landlord testified that he had allowed a month-to-month tenancy at a reduced rate of rent on the understanding that this was a short term tenancy so that the landlord may eventually redevelop the property. The landlord submitted evidence to demonstrate that they had taken the necessary steps to fulfill their plan to demolish the property, but testified that they were unable to obtain a demolition permit until the home was vacant. The landlord's evidence included an application for a demo permit, dated December 8, 2017; a tree management permit, dated January 8, 2018; and a Pre-Demolition Hazardous Material Inspection and Risk Assessment dated December 14, 2017.

The tenant testified that the landlord was not in possession of all the necessary permits at the time that the 2 Month Notice was issued to her on November 29, 2017, and that he only started the process after she had filed her application for dispute resolution on December 6, 2017, and therefore the 2 Month Notice was not issued in accordance with the *Act*.

### **Analysis**

Subsection 49(6) of the *Act* sets out that a landlord may end a tenancy in respect of a rental unit where the landlord, in good faith, has all the necessary permits and approvals required by law and intends in good faith, to...renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

The tenant gave undisputed sworn testimony that the landlord had not obtained all the necessary permits for the renovations at the time the 2 Month Notice was issued to her. Although the landlord had produced documentation to demonstrate that he had started to take the necessary steps to demolish the property, it is clear that the documentation

produced by the landlord were obtained after the tenant had filed an application to dispute the 2 Month Notice issued to her.. The reason provided on the 2 Month Notice states clearly that the landlord must have any required permits already in place. On this basis, I find that the landlord had issued the 2 Month Notice dated November 29, 2017 prior to obtaining these permits.

Accordingly, I allow the tenant's application to cancel the 2 Month Notice dated November 29, 2017. The landlord's 2 Month Notice is hereby cancelled and of no force and effect. This tenancy continues until it is ended in accordance with the *Act*.

The tenant also applied for an order for the landlord to comply with the *Act*, specifically to extend this tenancy so that her son may finish school. As this issue was addressed above, no further orders will be made, and this portion of the tenant's application is dismissed.

### **Conclusion**

The tenant's application to cancel the landlord's 2 Month Notice is allowed. The landlord's 2 Month Notice, dated November 29, 2017 is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

The tenant's application for the landlord to comply with the *Act* is dismissed.

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 21, 2018

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Residential Tenancy Branch