



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VR1323  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes CNL

### Introduction

This hearing dealt with the tenant's application pursuant to section 49 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice). At the hearing and with the approval of the parties I amended the tenant's original application which he mistakenly identified as a 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit. Since both parties agreed that the 2 Month Notice in question related to Landlord's Use of Property and this rental unit has never been a subsidized rental unit, I made this amendment in accordance with the powers delegated to me under the *Act*.

Due to a problem with the Residential Tenancy Branch's (the RTB's system), this hearing could not be undertaken on March 8, the original date scheduled for this hearing. With the agreement of the parties, they made themselves available the following day for a hearing of this matter. Their co-operation and understanding regarding this unexpected change in scheduling is much appreciated. I realize that both parties had to change their plans in order to attend and apologize on behalf of the RTB for the disruption and inconvenience caused by the postponement of the hearing of March 8 and the rescheduling of this teleconference hearing to March 9.

Both parties attended the hearing on March 9, and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses and to present their account of this situation.

As the tenant confirmed that he was handed the 2 Month Notice by the landlord on December 22, 2017, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the landlord confirmed that the tenant left a copy of the tenant's dispute resolution hearing package in the office mailbox for the

strata council who owns this strata building on or about January 8, 2018, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since both parties confirmed that they had received one another's written evidence, I find that the written evidence was served 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?

### Background and Evidence

This rental of a suite in a large strata building commenced in 2007. Monthly rent remains \$450.00 per month payable in advance on the first of each month, the same amount charged for this rental unit in 2007.

Between June 1, 2008 and January 10, 2014, the tenant was employed by the Strata Council for this building as a caretaker/manager. Although his employment with the Strata Council ended on January 10, 2014, his employment contract was not related to his separate rental of this suite. The tenant submitted undisputed written evidence that the Strata Council allowed him to remain in his rental suite on the same basis as he had rented it following the end of his employment with the Strata Council.

The landlord's 2 Month Notice, entered into written evidence by the tenant, identified the following reasons for seeking an end to this tenancy by February 28, 2018:

- *The landlord intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property...*

At the hearing, the landlord testified that the Strata Council's plans for this rental suite had changed since the 2 Month Notice was issued. He testified that at the time the Notice was issued the Strata Council expected that it would be hiring a new resident caretaker who would need to be located in the tenant's rental unit. However, the new resident caretaker already lived within the building and the need for this rental unit that was expected had not materialized. For that reason, the landlord gave sworn testimony that he had received direction from the Strata Council to use the tenant's rental unit as temporary guest suite accommodations for nightly rentals to guests of the 70 plus strata owners. The landlord stated that this temporary use would continue until such time as the accommodations were needed for a caretaker should the current caretaker end his employment with the Strata Council.

Although the landlord did not have the second page of the landlord's 2 Month Notice available, he maintained that the "box" selected on the 2 Month Notice was the closest fit to the landlord's current plans to use the rental unit for landlord's use of the property. At the hearing, I assisted by reading him the contents of the available options on the 2 Month Notice, noting that these selections mirror the provisions of the relevant section of the *Act* {section 49(6)(e)}.

### Analysis

Section 49(6)(e) of the *Act* establishes the basis by which a landlord may end a tenancy for landlord's use of the property to "convert the rental unit for use by a caretaker, manager or superintendent of the residential property."

In this case, the landlord's sworn testimony revealed that the landlord no longer requires the rental unit for the purposes stated in the 2 Month Notice. The stated intention to use the tenant's rental suite as a guest suite for nightly rentals to the family and friends of strata members does not align with the stated reason for ending this tenancy, the conversion for use by a caretaker. I am unwilling to accept that a tenancy should be ended on the basis of the possibility that some future caretaker may need the suite should that caretaker not reside in the building. As the reason stated on the 2 Month Notice no longer requires the tenant to vacate the rental unit, I allow the tenant's application to cancel the 2 Month Notice.

### Conclusion

I allow the tenant's application and set aside the 2 Month Notice. This tenancy continues until 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: March 09, 2018

---

Residential Tenancy Branch