



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, LRE

### 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 (the 2 Month Notice) pursuant to section 49; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the 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. The landlords' son (the agent) represented the landlords' interests in this matter and assured me that he had been given full authority to act on the landlords' behalf in this matter.

As the tenant confirmed that he was handed the landlords' 2 Month Notice on January 1, 2018, I find that the tenant was duly served with that Notice on that date in accordance with section 88 of the *Act*. As the agent confirmed that the landlords received a copy of the tenant's dispute resolution hearing package sent to the landlords by the tenant by registered mail on January 13, 2018, I find that the landlords were duly served with this package in accordance with section 89 of the *Act*. Since both parties confirmed receipt of one another's written evidence, I find that these packages were duly served to one another in accordance with section 88 of the *Act*.

### Issues(s) to be Decided

Should the landlords' 2 Month Notice be cancelled? If not, are the landlords entitled to an Order of Possession? Should any orders be issued to the landlords regarding the landlords' right to enter this rental unit?

### Background and Evidence

The parties signed a month-to-month residential tenancy agreement on October 1, 2007. This tenancy has continued as per the original terms of this tenancy agreement for a monthly rental amount of \$950.00, payable in advance on the first of each month. The landlords continue to hold the tenant's \$500.00 security deposit paid when this tenancy began.

The parties agreed that the tenant has not paid any monthly rent to the tenant since he received the 2 Month Notice on January 1, 2018. No rent has been paid for January, February or March 2018.

The landlords' 2 Month Notice, entered into written evidence, identified the following reason for seeking an end to this tenancy:

- *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...*

Although the landlords identified March 1, 2018, as the effective date for their 2 Month Notice, I advised the parties that the earliest possible effective date for their 2 Month Notice was March 31, 2018, a full two months after the 2 Month Notice was issued. In accordance with the *Act*, this effective date is automatically corrected to March 31, 2018.

In seeking the cancellation of the landlords' 2 Month Notice, the tenant maintained that the harassment he had encountered from the landlords and the loss of the quiet enjoyment of his premises he had experienced should be taken into account. He testified that he was trying to find suitable alternate accommodations, but had been unable to do so thus far. He asked that any end to this tenancy be delayed until the end of April 2018.

The tenant also applied for an order restricting the landlords' access to his rental unit, as he alleged that the landlords had contravened the *Act* in allowing people access to his rental unit without providing the tenant with 24 hours of written notice. On this point, the agent denied that there had been any history of contravention of the rules regarding landlord access to the rental unit.

### Analysis

Paragraph 49(6)(a) of the *Act* establishes that a landlord may end a tenancy in respect of a rental unit where the landlord has all the necessary permits and approvals required by law, and intends in good faith, to demolish the rental unit. According to subsection 49(8) of the *Act*, a tenant may dispute a notice to end tenancy for landlord's use by making an application for dispute resolution within fifteen days after the date the tenant receives the notice. In this case, the tenant received the 2 Month Notice on January 1, 2018, and filed their application to cancel that Notice on January 12, 2018. Therefore, the tenant was within the 15 day time limit for submitting this application under the *Act*. Under these circumstances, the onus shifts to the landlord to justify the basis for the 2 Month Notice.

In this case, I find that the landlords provided written evidence to demonstrate that they had paid for and obtained a demolition permit from their municipality on December 19, 2017. As the tenant did not dispute this written evidence, I accept that the landlords did have all of the necessary permits in place at the time the 2 Month Notice was issued to enable the landlords to demolish the dwelling on this rental property where the tenant resides.

While I have given consideration to the tenant's request that the history of his interaction with the landlords should be taken into account, I find nothing that would suggest that the landlords are acting in bad faith in their stated intent to demolish this dwelling and replace it with another structure. The agent testified that tradespeople have been scheduled to commence this demolition and there was no ability to extend this tenancy beyond March 31, 2018. Under these circumstances, I find that the landlords have established that they had valid grounds pursuant to paragraph 49(6)(a) of the *Act* to issue the 2 Month Notice on January 1, 2018, in order to enable them to demolish this rental structure. For these reasons, I dismiss the tenant's application without leave to reapply.

Turning to the request to limit the landlords' access to the rental unit, I note that the agent confirmed that there would be no need for the landlords to access the rental unit during the remainder of this tenancy. No showings would be necessary and no repairs are scheduled as this building is to be demolished. In light of this sworn testimony from the landlords' agent, I order the landlords to limit to the extent possible any site inspections for the remainder of this tenancy to those that are absolutely necessary. In the event that a non-emergency inspection is for some reason necessary during the remainder of this tenancy, I order the landlords to send the tenant a 24-hour written request to do so. This does not prevent the landlords from accessing the rental unit under a true emergency.

Conclusion

I dismiss the tenant's application to cancel the 2 Month Notice without leave to reapply. The landlords are provided with a formal copy of an Order of Possession effective at 1:00 p.m. on March 31, 2018. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlords to limit to the extent possible any site inspections for the remainder of this tenancy to those that are absolutely necessary. In the event that a non-emergency inspection is for some reason necessary during the remainder of this tenancy, I order the landlords to send the tenant a 24-hour written request to do so.

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 01, 2018

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Residential Tenancy Branch