



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”) issued on February 13, 2018.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving sufficient evidence to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issue to be Decided

Should the Notice be cancelled?

### Background and Evidence

The tenancy began at the end of August 2015. Rent in the amount of \$1,200.00 was payable on the first of each month.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on April 30, 2018.

The reason stated in the Notice was that:

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

The landlord testified that they have the permits necessary to make renovations to the interior of the rental unit. The landlord stated that they are going to remove the existing kitchen and replace it. The bathroom is going to be renovated and they are moving the laundry room from the basement to the main floor. Filed in evidence is a permit and an overview of renovations.

The landlord testified that this is their family home and they refuse to work around the tenants while the renovation is taking place.

The tenants testified that it is not necessary for the rental unit to be vacant. The tenants stated that the rental unit is five (5) bedrooms, two (2) bathrooms and they will be able to accommodate the landlord.

The tenants testified that they have family nearby and if and when the kitchen is renovated they are able to remove their belongings from the kitchen and eat their meals elsewhere. The tenants stated there are two (2) bathrooms so renovating one of those bathrooms will have no impact on them and they will accommodate the landlord.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 49(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has not provided sufficient evidence to show that:

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

I accept the evidence of the landlord that they have the necessary permits required by law. I further accept the landlord is intending to make renovations to the kitchen, bathroom and laundry room.

However, I am not satisfied that the rental unit requires vacant possession of the rental unit, as this renovation appears primarily to be cosmetic. Simple because the landlord does not want to work around the tenants is the landlord's personal choice, rather than out of necessity to have the work completed.

The tenants have confirmed they are able to accommodate the landlord during the renovations by removing items from the areas impacted. The tenants have confirmed they are able to use a kitchen or other facilities elsewhere as they have family nearby.

I find the landlord has failed to prove that the renovation to the rental unit requires the rental unit to be vacant. Therefore, I grant the tenants' application to cancel the Notice issued on February 13, 2018. The tenancy will continue until legally ended in accordance with the Act.

### Conclusion

The tenants' application to cancel the Notice, issued on February 2, 2018, is granted.

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: May 03, 2018

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Residential Tenancy Branch