



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL, CNL

### Introduction

This hearing was convened in response to applications by the landlords and the tenant filed under the Residential Tenancy Act (the “Act”).

The landlords’ application seeks an order as follows:

1. For an order of possession.

The tenant’s application seeks an order as follows:

1. To cancel a Two Month Notice to End Tenancy for Landlord’s Use of Property, issued on February 2, 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 landlords to provide their evidence submission first, as the landlords have 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.

### Issues to be Decided

Should the Notice be cancelled?  
Is the landlord entitled to an order of possession?

### Background and Evidence

The tenancy began on July 1, 2016. Rent in the amount of \$1,900.00 was payable on the first of each month.

The landlords testified that they are the new purchasers of the subject property which they took possession on March 5, 2018. The purchaser stated that they asked the landlord to serve the tenant with the Notice to end the tenancy.

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

The reason stated in the Notice was that:

- All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or close family member intends in good faith to occupy the rental unit.

The landlords testified that their mother recently passed away and that she was the primary caregiver for their father. The landlords stated that their father is 84 years old and currently living by himself. The landlords stated that they want the subject rental unit for their father as it has no stairs and that he will be on the same property that they reside so they can take care of him.

The tenant testified that they are sorry for the death in the family; however, they have serious doubts that the landlords intend to use the subject rental unit for their father. The tenant stated that back in September 2017, the landlords advertised the rental unit for a higher rent, although they were still living in the premises.

The landlords respond that they had a lot of difficulties with purchasing the property. The landlords stated that they were told by the seller that both of the tenants would be vacating the property by October 2017, which was their original closing date. So they thought it appropriate to advertise. The landlords stated that as soon as they were informed by the tenant that they were not moving they removed the advertisement.

The landlords respond that family circumstances have changed, with the passing of their mother.

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 landlords have provided sufficient evidence to show that:

- All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or close family member intends in good faith to occupy the rental unit.

I accept the evidence of landlords that their mother passed away. This was not disputed by the tenant. This left the landlords' 84 year old father on his own and the landlords want to be able to move him into the subject rental unit, as it has no stairs. This will also allow the landlords to be able to care for their father as they live on the property. I find that reasonable under the circumstances.

While the landlords did advertise the rental unit prior to their ownership of the subject property, I find their explanation reasonable that this was miscommunicated information between the buyer and the seller, as they were told that the tenant was vacating.

I find the Notice issued on February 2, 2018, has been proven by the landlords and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice.

At the conclusion of the hearing the landlords agreed to extend the effective date in the Notice to June 30, 2018.

As the tenancy legally ends on the extended effective date of the Notice, I find the landlords are entitled to an order of possession effective **June 30, 2018, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenant's application to cancel the Notice, issued on February 2, 2018, is dismissed. The landlords are granted an order of possession.

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 04, 2018

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Residential Tenancy Branch