



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenants under the *Residential Tenancy Act* (the “Act”), seeking cancellation of a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Two Month Notice”).

I note that section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Tenants, both of whom provided affirmed testimony. The Respondent did not attend. The Tenants were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the Respondent must be served with a copy of the Application and Notice of Hearing. As the Respondent, who is an agent of the Landlord, did not attend the hearing, I confirmed service of documents as explained below.

The Tenants testified that the Application and the Notice of Hearing were personally served on the Respondent, who is an agent for the owner, on April 20, 2018. Further to this, the Tenants testified that the property owner was also notified of the hearing by text message. As a result of the above and in the absence of any evidence to the contrary, I find that the Respondent was personally served the Application and the Notice of Hearing on April 20, 2018.

The Tenants also advised me that approximately one week prior to the hearing, the Respondent passed away. Despite the foregoing and based on their undisputed testimony, I find that the property owner was also aware of the hearing and therefore could have attended in the absence of the Respondent or appointed another agent to attend in his place. Rule 7.3 of the Rules of Procedure states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution

hearing in the absence of that party, or dismiss the application, with or without leave to reapply. As a result, the hearing proceeded as scheduled despite the absence of the Respondent.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

At the request of the Tenant's, copies of the decision will be e-mailed to them at the e-mail addresses provided in the hearing.

#### Issue(s) to be Decided

Is there a valid reason to cancel the Two Month Notice under the *Act*?

If the Tenants are unsuccessful in seeking to cancel the Two Month Notice, is the Landlord entitled to an Order of Possession pursuant to section 55(1) of the *Act*?

#### Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that the month-to-month tenancy began on December 1, 2015. The Tenants testified that on April 2, 2018, they received a Two Month Notice but do not agree with the reasons for ending the tenancy.

The Tenants submitted a copy of the Two Month Notice, dated March 31, 2018, which has an effective vacancy date of June 1, 2018, and states that the reason for ending the tenancy is because the Landlord has all the permits and approvals required by law to demolish, renovate, or repair the rental unit in a manner that requires the rental unit to be vacant.

The Tenants testified that as they have not been provided with any proof that the Landlord has the permits and approvals required by law to renovate or repair the rental unit or that any such renovations or repairs require vacant possession, the Two Month Notice should be cancelled.

Neither the owner nor the agent of the owner attended to provide any evidence or testimony for my consideration.

### Analysis

The ending of a tenancy is a serious matter and when a tenant disputes a Notice to End Tenancy, the landlord bears the burden to prove that they had sufficient cause under the *Act* to issue the notice. As neither the Landlord nor their agent attended the hearing or provide any evidence for consideration, I find that they have failed to establish, on a balance of probabilities, that they had cause to end the tenancy under the *Act*. As a result, the Two Month Notice is cancelled and I order that the tenancy continue in full force and effect until it is ended in accordance with the *Act*.

### Conclusion

I order that the Two Month Notice dated on March 21, 2018, be cancelled.

I also order that the tenancy continue in full force and effect until it is 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: June 18, 2018

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Residential Tenancy Branch