



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### 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;

The tenants, landlord and his agent/daughter attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenants served the landlord with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on July 16, 2020. Both parties also confirmed the landlord served the tenants with his submitted documentary evidence posted to the rental unit door on August 7, 2020. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 2 Month Notice?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on April 1, 2010 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated March 9, 2010. The monthly rent was

\$750.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$375.00 was paid on April 9, 2010.

Both parties confirmed the landlord served a 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) dated June 28, 2020 by posting it to the rental unit door on June 28, 2020. The 2 Month Notice displays an effective end of tenancy date of August 31, 2020. The reason for the 2 Month Notice states:

*The rental unit will be occupied by the landlord or the landlord/s close family member (parent, spouse or child; or the parent or child of that individual's spouse).*

The 2 Month Notice also states that the close family member that will occupy the unit is: *The landlord or the landlord's spouse.*

The applicants provided written details of their reasons for disputing the notice:

- 1) *Section 28 of the RTA (Quiet Enjoyment), Section 32(1) of the RTA (Routine maintenance and repairs), Section 33 of the RTA (Emergency Repairs).*
- 2) *How out landlord told us to shred and destroy any evidence we have, also had said "It won't help you in arbitration."*
- 3) *How out landlord put the unit up for sale before COVID-19...listed by....and was taken down.*
- 4) *COVID-19 happened! Our landlord demanded a certain amount of rent money during the COVID-19 pandemic.*
- 5) *How out landlord made it difficult for us to pay rent during COVID-19 pandemic.*
- 6) *Rental vacancy in the Cowichan Valley, potential homelessness and the possibility of a 2<sup>nd</sup> wave of COVID-19.*

*In conclusion, we are entitled to one month rent as compensation to help with the financial burden of moving. We also seek compensation for the loss of quiet enjoyment of our rental unit.*

[reproduced as written]

The tenants clarified that there is no dispute on the content of the landlord's notice or the service of it. The tenants argued that the landlord has in the past failed to make emergency repairs, told the tenants to shred and destroy evidence, "threatened" to evict them and treats them inappropriately.

Extensive discussions with the tenants resulted in the tenants being informed that all these reasons listed by the tenants are not relevant to the reason the landlord is issued the 2 Month Notice. The tenants stated that they do not wish to move.

### Analysis

Subsection 49(4) of the Act sets out that a landlord may end a tenancy in respect of a rental unit where a close family member of the landlord intends in good faith to occupy the rental unit.

Where a tenant applies to dispute a 2 Month Notice, the onus is on the landlord to prove, on a balance of probabilities, the reasons on which the 2 Month Notice is based.

In this case, although the tenants have disputed the 2 month notice dated June 28, 2020, the tenants have not identified a reason other than that they do not wish to move. Extensive discussions with the tenants during the hearing resulted in the tenants not identifying any issues with the contents of the 2 month notice of its service. The tenants repeatedly cited that during the tenancy the landlord failed to make emergency repairs; they were told to shred and destroy evidence (of which the tenant failed to identify and how it would be relevant to the 2 month notice); threatened with eviction; and the landlord does not treat them properly.

The landlord stated during the hearing that he purchased the property 2 years previously and no longer wished to live in a trailer. The landlord stated that he wished to occupy the property himself.

I accept the undisputed affirmed evidence of both parties and find that the tenants have failed to provide sufficient reasoning to dispute the 2 month notice dated June 28, 2020. The tenants did not dispute service or the contents of the 2 month notice. The primary concern by the tenants were allegations of mistreatment and inaction by the landlord which were unrelated to the 2 month notice. On this basis, the tenants' application is dismissed. The 2 month notice dated June 28, 2020 is upheld.

Pursuant to section 55 of the Act, the landlord is granted an order of possession for the effective end of tenancy date of August 31, 2020.

### Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenants. Should the tenants fail to comply with this order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: August 17, 2020

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Residential Tenancy Branch