



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL-4M, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 4 Month Notice to End Tenancy for Landlord's Use of Property (the 4 Month Notice) pursuant to section 49;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties confirmed the tenant served the landlord with the notice of hearing package and the submitted documentary evidence. Both parties also confirmed the landlord served the tenant with his submitted documentary evidence. The tenant confirmed that her late evidence submission was not serve to the landlord. On this basis, the tenant's unserved evidence is excluded from consideration in this hearing. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 4 month notice?  
Is the tenant entitled to recovery of the filing fee?

### 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 February 1, 2021 on a fixed term tenancy until January 31, 2022 and then thereafter on a month-to-month basis or another fixed length of time as per the submitted copy of the signed tenancy agreement dated February 2, 2022. The monthly rent was \$850.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$425.00 was paid.

Both parties confirmed that the landlord served the tenant with a 4 month notice to end tenancy for landlord's use or property dated January 24, 2022 by placing it in the tenant's mailbox on January 24, 2022. The 4 month notice sets out an effective end of tenancy date of May 31, 2022 and the reason selected as:

Perform renovations or repairs that are so extensive that the rental unit must be vacant. Indicate how many anticipated "months" the unit is required to be vacant. (handwritten notation, 4-5 months).

No permits and approvals are required by law to do this work.

Planned work:

*New cupboards, counters, sinks, toilets, shower, heaters, windows, flooring  
Some electrical and plumbing.  
Remove fireplace.*

Details of work:

*Repairs are extensive and will require plumbing and electricity to be shut off. There will be no kitchen or bathroom facilities.  
Dust and debris will not be safe for tenant to breathe.*

The tenant has provided written details which states:

*Everything he wrote on planned work is things he could do while I am in suite. I had both toilets and one bathroom sink replaced in last two years. I feel he just want to increase the rent.*

[reproduced as written]

During the hearing discussions between both parties resulted in talks to settle the dispute.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed the landlord cancel the 4 month notice to end tenancy dated January 24, 2021.

Both parties agreed the tenant cancel the application for dispute.

Both parties agreed that tenant may continue her tenancy until a new lower unit is completed for the tenant to occupy on the rental property.

Both parties agreed that once a new unit is completed for occupancy, both parties will enter into a new tenancy agreement for a "lower unit" at \$1,500.00 per month.

Both parties also confirmed that while the new unit is being completed (construction phase) the tenant understands that many construction noises will occur despite the landlord's best efforts to minimize any disturbances.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

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 04, 2021

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Residential Tenancy Branch