



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

On March 8, 2021, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) to cancel a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit.

The matter was scheduled as a teleconference hearing. The Landlord and Tenant attended the hearing. The hearing process was explained, and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

### Issue to be Decided

- Is the Landlord entitled to end the tenancy based on the issuance of a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit (“the Four Month Notice”)?

### Background and Evidence

The Landlord/ Respondent and Tenant / Applicant testified that the tenancy began on December 15, 2020 on a month to month basis. The Tenant was renting a room and sharing the home with other tenants who were under separate tenancy agreements. Rent in the amount of \$900.00 was to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$425.00.

At the start of the hearing the Tenant was asked if she is still living in the rental unit she stated “no”. The Tenant stated that she moved out of the rental unit on March 31, 2021 and the house was demolished.

Since the tenancy ended when the Tenant moved out of the rental unit on March 31, 2021 and since I can only resolve issues that are listed in the Notice of Dispute Resolution Proceeding, there is no need to determine whether the tenancy will be ending based on a notice to end tenancy.

### Jurisdiction

The Landlord testified that they are not the actual Landlord /owner of the rental property. The Landlord testified that they rented the home from the owner and rented out rooms within the home to sub-tenants. The Landlord testified that they were not acting as an agent of the actual landlord/ owner or with his permission when they rented out the rooms.

The Landlord/ Respondent testified that they received a Four Month Notice to End Tenancy from the owner and informed the sub tenants that their tenancies were ending. The Landlord/ Respondent never issued a proper notice to end tenancy on a residential tenancy branch form to the sub tenants.

The Tenant stated that she was never informed that her Landlords were not the actual Landlords/ owner of the home or that her tenancy was a sublet. The Tenant believes that she entered into a proper tenancy and she should have received a four-month notice to end tenancy.

The Tenants request during the hearing to include a claim for monetary compensation was denied.

### Analysis

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent, or another person who, on behalf of the landlord,*
  - (i) permits occupation of the rental unit under a tenancy agreement, or*
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;*
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);*
- (c) a person, other than a tenant occupying the rental unit, who*

- (i) *is entitled to possession of the rental unit, and*
- (ii) *exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;*
- (d) *a former landlord, when the context requires this;*

Residential Tenancy Policy Guideline #19 Assignment and Sublet is intended to help the parties to an application understand issues that are likely to be relevant and what information or evidence is likely to assist them in supporting their position. The Guideline provides an explanation of Occupants/Roommates. The Guideline provides:

*Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.*

After considering the evidence and testimony of the Applicant and Respondent, I make the following findings:

The Applicant bears the burden of proof. The Respondent stated they are not the Landlord. There is insufficient evidence from the Applicant that the Respondent is actually the owner of the rental property.

I find that the Respondent does not meet the definition of a Landlord because he is not the owner of the rental unit, or the Landlord /owners agent who on behalf of the Landlord/ owner permitted occupation of the rental unit under a tenancy agreement. The Respondent appears to be the actual Tenant permitted to occupy the rental unit under a tenancy agreement. According to the definition of Landlord, a Landlord must be a person other than a Tenant occupying the rental unit. It appears that the Respondent did not have authorization from the owner to permit occupants to live in the rental property.

In addition, it appears that the Applicant is not a Tenant of the Landlord/ owner because she did not enter into a tenancy agreement with the owner of the rental property. She is an occupant of the actual Tenant with no contract or permission to be there from the actual owner.

I find that since there is no contractual agreement between the Applicant and the actual owner of the rental property; when the owner ended the tenancy of the actual Tenant by issuing a notice to end tenancy, the tenancy ended for all occupants living at the rental unit.

It appears that the Applicant entered into a month to month occupancy arrangement with the Respondent. I find that the agreement is not a sublease because there is insufficient evidence to establish that the owner agreed to a sublease arrangement and because the term of tenancy was not set for a period shorter than the term of the actual Tenant's tenancy agreement. Furthermore, a sublet must specify the date on which the tenancy under the sublease agreement ends.

The issue of whether or not the tenancy is ending based on a notice to end tenancy was not considered because the Tenant moved out of the rental unit prior to the hearing and because the rental unit is now demolished.

However, based on the evidence before me, I find that the Act does not apply to this occupancy agreement and I have no jurisdiction to resolve disputes between the parties. The Application for Dispute Resolution is dismissed without leave to reapply.

### Conclusion

Based on the testimony and evidence presented by the parties, I find that there is not a proper landlord/tenant relationship as defined by the Act, and therefore the Act does not apply. I have no jurisdiction to resolve disputes between the parties.

The Tenant's application to cancel a Four Month Notice to end Tenancy is dismissed.

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 15, 2021

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Residential Tenancy Branch