



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

On May 8, 2021, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") requesting the following relief:

- to cancel a Two Month Notice to End Tenancy for Landlord Use of Property dated April 30, 2021.

The matter was set for a conference call hearing. The Tenant and Landlords appeared at the hearing. The Tenant was assisted by an advocate. 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. The parties were informed that recording the hearing is not permitted.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is there sufficient cause to end the tenancy based on the Two Month Notice to End Tenancy for Landlord's Use of Property dated April 30, 2021?

### Background and Evidence

The Landlords and Tenant testified that the tenancy began on February 1, 2020, on a month-to-month basis. Rent in the amount of \$900.00 is to be paid to the Landlord by the first day of each month. The Tenant paid the Landlords a \$450.00 security deposit.

The Tenant testified that he received a Two Month Notice to End Tenancy for Landlord's Use of Property dated April 30, 2021 ("the Two Month Notice").

The Two Month Notice contains one reason for ending the tenancy:

- The rental unit will be occupied by the Landlord or the Landlord's spouse.

The Two Month Notice provides information for Tenants who receive the Notice. The Notice provides that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the Two Month Notice by applying for Dispute Resolution on May 8, 2021 within the required time period.

The Landlords confirmed that they issued the Two Month Notice. The burden to support the reason to end the tenancy rests with the Landlord. The Landlord testified that they made a mistake on the Two Month Notice. The Landlord testified that they are not intending to occupy the rental unit; however, they want the rental unit vacant for use by their brother and his fiancé.

The Tenant testified that when the Landlord told him that his cousin was moving into the rental unit, the Tenant informed the Landlord that he could not end the tenancy for that reason.

The Tenant's advocate stated that the Two Month Notice was issued in bad faith.

### Analysis

Section 49(1) of the Act provides a definition of close family member as follows:

"close family member" means, in relation to an individual,

*(a) the individual's parent, spouse, or child, or*

*(b) the parent or child of that individual's spouse.*

Based on the above, the testimony and evidence of the parties, and on a balance of probabilities, I find as follows:

I find that the Landlord does not intend to occupy the rental unit as indicated on the Two Month Notice. I also find that the Landlord's brother and fiancé do not meet the definition of a close family member under the Act.

The Tenants application to cancel the Two Month Notice is successful. The Two Month Notice to End Tenancy for Landlord's Use of Property dated April 30, 2021 is cancelled.

The tenancy will continue until ended in accordance with the Act.

### Conclusion

I find that the Landlord does not intend to occupy the rental unit as indicated on the Two Month Notice. I also find that the Landlord's brother and fiancé do not meet the definition of a close family member under the Act.

The Tenant's application to cancel the Two Month Notice to End Tenancy for Landlord's Use of Property dated April 30, 2021, is successful. The Two Month Notice is cancelled.

The tenancy will continue until 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: September 16, 2021

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Residential Tenancy Branch