



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, FFT

Introduction

The tenant disputes a Four Months' Notice to End Tenancy for Demolition, Renovations, Repair or Conversion of a Rental Unit (the "Notice") pursuant to section 49(6)(b), as it then was, of the *Residential Tenancy Act* ("Act"). In addition, the tenant applied to recover the cost of the filing fee, under section 72 of the Act.

Only the tenant attended the hearing on November 8, 2021 at 11:00 AM. The landlord did not attend the hearing, which ended at 11:10 AM.

The tenant testified that he served a copy of the Notice of Dispute Resolution Proceeding on the landlord, in person, on or about July 24 or 25, 2021, as required by the Act and the *Rules of Procedure*. Based on this undisputed testimony it is my finding that the tenant served the landlord in compliance with the Act.

Preliminary Issue: Non-Attendance of Landlord

In an application where a tenant disputes a notice to end a tenancy, the onus falls on the landlord to prove, on a balance of probabilities, the reason for the notice being issued. As the landlord did not attend the hearing, they have therefore not discharged the onus of proving why the Notice was issued. Accordingly, the tenant's application is granted, and the Notice is hereby cancelled. The Notice is of no legal force or effect, and the tenancy shall continue until it is ended in accordance with the Act.

Section 72 of the Act permits me to order compensation for the cost of the filing fee to a successful applicant. As the tenant succeeded in his application, I grant him \$100.00 in compensation to cover the cost of the filing fee. Pursuant to [section 72\(2\)\(a\)](#) of the Act, the tenant is hereby authorized to deduct \$100.00 from a future rent payment in satisfaction of this award.

As briefly explained to the tenant, the landlord may no longer issue a Four Months' Notice to End Tenancy for Demolition, Renovations, Repair or Conversion of a Rental Unit where the property needs to be vacant in order to undertake renovations or repairs.

Effective July 1, 2021, a landlord must apply to the Residential Tenancy Branch for an order of possession if they want to end a tenancy for extensive renovations. See [section 49.2](#) of the Act and information at www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/renovictions.

Conclusion

The tenant's application is granted.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: November 8, 2021

Residential Tenancy Branch