



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL-4M OLC FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 4 Month Notice to End Tenancy for Conversion of a Rental Unit dated June 22, 2021 (4 Month Notice), for an order directing the landlord to comply with the Act, regulation or tenancy agreement and to recover the cost of the filing fee.

The landlord and counsel for the tenant, OM (counsel) attended the teleconference hearing. The landlord was affirmed. Counsel has already sworn an oath. The parties were provided an opportunity to ask questions during the hearing.

Neither party raised any concerns regarding the service or receipt of documentary evidence. I find the parties were sufficiently served as required by the Act. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The parties confirmed their understanding that the decision would be emailed to both parties. As a result, the email address for counsel was confirmed as was the email address for the landlord.

### Issues to be Decided

- Should the 4 Month Notice be cancelled?
- If yes, is the tenant entitled to the recovery of the cost of the filing fee under the Act?

### Background and Evidence

The landlord testified that the tenancy began in approximately 2006. The landlord stated that current monthly rent is \$1,139.00 and is due on the first day of each month.

The 4 Month Notice is dated June 22, 2021. The landlord testified that they served the tenant personally at the rental unit address on June 22, 2021. The tenant filed their application to dispute the 4 Month Notice on July 22, 2021, which is within the 30 day timeline provided for under the Act.

The reason listed on 4 Month Notice states as follows:

I am ending your tenancy because I am going to: (check a box that applies)			
<input type="checkbox"/>	Demolish the rental unit.		
<input type="checkbox"/>	Perform renovations or repairs that are so extensive that the rental unit must be vacant. Indicate how many anticipated weeks/months ( <b>please circle one</b> ) the unit is required to be vacant.		
<input type="checkbox"/>	Convert the residential property to strata lots under the Strata Property Act.		
<input type="checkbox"/>	Convert the residential property into a not for profit housing cooperative under the Cooperative Association Act.		
<input checked="" type="checkbox"/>	Convert the rental unit for use by a caretaker, manager, or superintendent of the residential property.		
<input type="checkbox"/>	Convert the rental unit to a non-residential use.		
<input type="checkbox"/>	I have obtained all permits and approvals required by law to do this work. Please complete the information below.		
Date Issued DD/MM/YYYY	Issued by	Description	Permit Number
<input type="checkbox"/> No permits and approvals are required by law to do this work.			
The work I am planning to do is detailed in the table below:			
Planned Work	Details of work (*If you are ending the tenancy for renovations or repairs, explain why the renovations or repairs require the rental unit to be vacant).		

The landlord was asked why they did not check either box circled above. The landlord testified that they did not know they had to check off either box as permits were not required to convert the rental unit as just paint was needed.

### Analysis

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

Firstly, I find the tenants filed their application on time to dispute the 4 Month Notice as indicated above. When tenants dispute a 4 Month Notice on time, the onus of proof reverts to the landlord to prove that the 4 Month Notice is valid and should be upheld. If the landlord fails to prove the 4 Month Notice is valid, the 4 Month Notice will be cancelled.

In addition to the above, Residential Tenancy Branch (RTB) Policy Guideline 2B: Ending a Tenancy to Demolish, Renovate, or Convert a Rental unit to a Permitted Use (policy guideline 2B) states in part:

If permits are not required for the work, **a landlord must provide evidence, such as confirmation from a certified tradesperson or copy of a current building bylaw that permits are not required but that the work requires the vacancy of the unit in a way that necessitates ending the tenancy.**

[emphasis added]

Secondly, section 52 of the Act applies and states:

#### **Form and content of notice to end tenancy**

**52** In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) **when given by a landlord, be in the approved form.**

[emphasis added]

I find that the landlord neglected to fill out whether or not permits were required for the reason stated on the 4 Month Notice and instead made the decision to leave those two boxes blank. I find that by doing so, the landlord failed to complete the 4 Month Notice in full and as a result, I find the 4 Month Notice is not in the approved form as the landlord did not complete the form before serving it on the tenant.

As a result, **I cancel** the 4 Month Notice dated June 22, 2021.

**I ORDER** the tenancy to continue until ended in accordance with the Act.

As the tenant's application was successful, I grant the tenant a one-time rent reduction in the amount of **\$100.00** in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 62(3) and 72 of the Act.

**I caution** the landlord not to issue incomplete notices on the tenant for the remainder of the tenancy.

#### Conclusion

The tenant's application is successful.

The 4 Month Notice is cancelled and is of no force or effect.

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

The tenant is granted a one-time rent reduction in the amount of \$100.00 in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 62(3) and 72 of the Act.

This decision will be emailed to counsel and the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 23, 2021

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Residential Tenancy Branch