



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Coronation Avenue GP Ltd and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL-4M, FFT  
                             OPL-4M, FFL

### Introduction

This hearing was convened by way of conference call concerning applications made by the tenants and by a landlord.

The tenants have applied as against an individual person as landlord seeking an order cancelling a Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit and to recover the filing fee from the landlord for the cost of the application.

The landlord company has applied for an Order of possession for demolition or conversion of a rental unit and to recover the filing fee from the tenants.

The individually named landlord attended the hearing and represented the landlord company. One of the tenants also attended and represented the other tenant. The parties each gave affirmed testimony and were given the opportunity to question each other and to give submissions.

The parties have each provided evidentiary material in advance of the hearing, however the landlord provided additional evidence the day of the hearing. Any evidence that an applicant wishes me to consider must be provided to the Residential Tenancy Branch and to the other party at least 14 days prior to the hearing. Therefore, I decline to consider the additional evidence of the landlord. All other evidence has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit was issued in accordance with the *Residential Tenancy Act*, or should it be cancelled?

Background and Evidence

**The landlord** testified that this month-to-month tenancy began on February 1, 2019 and the tenants still reside in the rental unit. Rent in the amount of \$1,550.00 is payable on the 1<sup>st</sup> day of each month and there are no rental arrears. On January 17, 2019 the landlord collected a security deposit from the tenants in the amount of \$775.00 as well as a pet damage deposit in the amount of \$250.00 which was collected on February 1, 2019. Both deposits are still held in trust by the landlord. The rental unit is a single family dwelling and a copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that on July 23, 2021 the tenants were served with a Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit by posting it to the door of the rental unit along with a demolition permit. A copy of pages 1 and 2 of a 4-page Notice has been provided as evidence for this hearing. It is dated July 23, 2021 and contains an effective date of vacancy of November 30, 2021. The reason for issuing it states: Demolish the rental unit.

The landlord testified that the landlord company is building a 4-story, 36 unit residential apartment condominium building on the rental property and on other adjacent lots. The development permit has been completed, and now the landlord needs to demolish the rental unit. Abatement could take up to 2 weeks and the demolition process could be up to 8 weeks.

**The tenant** testified that the tenants received a building permit and another permit from the City as well as 2 pages of a Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit. The first page says that it is page 1 of 4, but the tenants only received 2 pages and does not know what the other 2 would have been.

The tenants need extra time to find another rental unit to move to.

### Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*.

I refer to the Residential Tenancies website which states, in part:

A landlord can serve a 4 Month Notice to End a Tenancy if they are going:

1. demolish the rental unit;
2. convert the residential property to strata lots under the Strata Property Act;
3. convert the residential property into a not for profit housing cooperative under the Cooperative Association Act;
4. convert the rental unit for use by a caretaker, manager or superintendent of the residential property; or
5. convert the rental unit to a non-residential use.

All Notices to End Tenancy have multiple pages – it's only valid if the landlord serves all pages to the tenant. There are rules about how and when a landlord can serve notice.

In this case, the landlord has provided 2 pages of the 4-page form as evidence for this hearing, and the tenant testified that only 2 pages were served. Therefore, I am not satisfied that the notice served is in the approved form, and I cancel it. The landlord's application is dismissed.

Since the tenants have been successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee from the landlord. I grant a monetary order in that amount in favour of the tenants and I order that the tenants be permitted to reduce rent for a future month by that amount or may otherwise recover it by filing the order for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

### Conclusion

For the reasons set out above, the landlord's application is hereby dismissed.

The Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit dated July 23, 2021 is hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenants may reduce rent for a future month by that amount, or may otherwise recover it.

This order is final and binding and may be enforced.

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: December 21, 2021

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Residential Tenancy Branch