



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Tenant applied for an order to cancel a Two Month Notice to End Tenancy For Landlord's Use of Property, dated July 19, 2021 (the Two Month Notice).

The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified they served their Notice of Dispute Resolution Proceeding and evidence on the Landlord by registered mail on an unknown date. The Landlord confirmed they received the documents, on an unknown date. I find the Landlord sufficiently served in accordance with section 71 of the Act. The Landlord confirmed they did not serve responsive evidence on the Tenant.

### Issue to be Decided

Is the Tenant entitled to an order to cancel the Two Month Notice?

### Background and Evidence

The parties agreed on the following particulars of the tenancy. It began on November 1, 2013; rent is \$1008.00, due on the first of the month; the Tenant paid a security deposit of \$450.00 and a pet deposit of \$450.00 which the Landlord still holds. The rental unit is half of a duplex.

The Tenant submitted as evidence a copy of the Two Month Notice. The Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reason for ending the tenancy, and is in the approved form. The Two Month Notice indicates the tenancy is ending because the Landlord or the Landlord's spouse will occupy the unit.

The Landlord testified they served the Two Month Notice on the Tenant by registered mail on July 19, 2021. The Tenant testified they received the notice a day or two after July 19, 2021.

The Landlord explained they served the Two Month Notice on the Tenant as they and their spouse are "going through a rough patch," and the Landlord's spouse will move into the Tenant's unit. The Landlord indicated they would like to open the duplex up, combining the neighbour's unit with the Tenant's unit to make a larger family home for their spouse and children to occupy. The Tenant explained that while their spouse's parents will not be moving in, they are very "hands-on" grandparents, and will also frequently be in the home to help out.

The Tenant testified they have been looking for a three-bedroom rental unit, but rentals in the area are almost non-existent, especially three-bedroom units the Tenant is seeking so as to have room for themselves and their three children.

The Tenant testified that the neighbours in the other half of the duplex were also given a two month notice by the Landlord, and moved out mid October. The Tenant testified the neighbours' former unit has sat empty for almost two months.

The Landlord testified their spouse has started to move things into the other half of the duplex, but this has been impeded somewhat by their spouse's demanding work schedule. The Landlord testified that they and their spouse are trying to make the spouse's move out of the current family home a gradual one, so as to minimize stress on their children.

The Tenant submitted as evidence an email dated May 14, 2021, from the Landlord, stating that they would be doing a walkthrough the following day. The business card of a real estate agent was also part of the image of the email.

The Landlord indicated that at that point (May 2021), they and their spouse had been exploring their options, as they were not sure how they would manage if the relationship does not continue.

### Analysis

I find the Landlord served the Two Month Notice on the Tenant by registered mail on July 19, 2021, and in accordance with section 88 of the Act. I find the Two Month Notice meets the form and content requirements of section 52 of the Act.

As described in Residential Tenancy Branch Rule of Procedure 6.6, where a tenant applies to dispute a notice to end tenancy, the onus is on the landlord to prove, on a balance of probabilities, the ground on which the notice is based.

I accept the Landlord's affirmed undisputed testimony that they and their spouse are in the process of separating, that their spouse will be moving into the rental unit, and that they wish to open up the two sides of the duplex to create one larger home.

Taking into careful consideration all the oral and documentary evidence presented, and applying the law to the facts, I find on a balance of probabilities that the Landlord has met the onus of proving the reason for the Two Month Notice, that being that their spouse will be moving into the rental unit, as allowed by section 49 of the Act.

The Two Month Notice is upheld. The Landlord is entitled to an order of possession, in accordance with section 55 of the Act. As the corrected effective date on the Two Month Notice, September 30, 2021, has passed, I find the tenancy will end on December 31, 2021.

The Tenant is entitled to compensation under section 51 of the Act:

**51** (1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

Conclusion

The Tenant's application is dismissed.

The Landlord is granted an order of possession which will be effective at 1:00 p.m. on December 31, 2021. The order of possession must be served on the Tenant. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

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 14, 2021

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Residential Tenancy Branch