



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      CNL OLC

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), pursuant to section 49;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

The landlord confirmed receipt of the tenant's application for dispute resolution ('application') and evidence package. In accordance with sections 88 and 89 of the *Act*, I find that the landlords duly served with the tenant's application and evidence. The landlord did not submit any written evidence for this hearing.

### **Issues to be Decided**

Is the tenant entitled to an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### **Background**

This tenancy began on April 1, 2021, with monthly rent currently set at \$1,200.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$700.00, which the landlord still holds.

The tenant filed this application as the landlord has attempted to serve the tenant with notices to end tenancy. The tenant submitted copies of a handwritten notice dated May 12, 2021, and August 31, 2021. The landlord confirmed in the hearing that the tenant was served with these notices.

Both parties also expressed frustration over other issues that have arisen in this tenancy.

### **Analysis**

Section 52 of the *Act* provides the following requirements requiring the form and content of notices 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, and*

*(e) when given by a landlord, be in the approved form...*

I am not satisfied that the tenant was served with a 2 Month Notice or a Notice to End Tenancy in the proper form, as required by section 52(e) of the *Act*. I find that the evidence does not support that a proper Notice to End Tenancy was served on the tenant. The burden of proof is on the landlord to support that the tenant was served with the Notice to End Tenancy in a form that complies with section 52 of the *Act*. I find that the letters issued by the landlord have no legal effect because it does not comply with the requirements of section 52 (e) of the *Act*.

As I am not satisfied that the tenant was served with a Notice to End Tenancy in the proper form, I allow the tenant's application to cancel the 2 Month Notice to End Tenancy. The tenancy is to continue until ended in accordance with the Act.

I am not satisfied that the landlord has contravened the *Act* in a manner that necessitates the issuance of any further orders, but I do emphasize the obligation of the landlord to comply the *Act* and legislation when serving the tenant with any Notices.

### **Conclusion**

The tenant's application to cancel the landlord's 2 Month Notice is allowed. I find that the Notices served on the tenant do not comply with section 52 (e) of the *Act*, and are of no legal force or effect. This tenancy continues until it is 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: December 21, 2021

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Residential Tenancy Branch