



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL, OLC

### Introduction

The Tenant applies to cancel a Two-Month Notice to End Tenancy dated October 25, 2021 (the "Two-Month Notice") pursuant to s. 49 of the *Residential Tenancy Act* (the "Act"). The Tenant also seeks an order under s. 62 that the Landlord comply with the Act, Regulations, and/or the tenancy agreement.

The Tenant did not appear, nor did someone appear on their behalf. P.A. attended as respondent to the application and S.A. attended as the respondent's advocate.

P.A. and S.A. affirmed to tell the truth at the hearing. Both confirmed that they were not recording the proceedings as recordings are prohibited by Rule 6.11 of the Rules of Procedure.

### Dismissal of Tenant's Application

The subject residential property in this matter was recently sold by P.A.. The purchaser, one P.S., took possession of the residential property on January 1, 2022. P.A. advised that she issued the Two-Month Notice after she received a request from P.S. to do so on October 25, 2021.

Section 1 of the *Act* defines a Landlord as follows:

"**landlord**", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or

- (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

The Two-Month Notice was issued under s. 49(5), which requires the purchaser to demonstrate their good faith intention to occupy the rental unit. The purchaser in this case failed to attend the hearing.

I note that P.A. is no longer the property owner and thus is not the landlord as defined by s. 1 of the *Act*. Further, s. 49(5) is clear that the purchaser must demonstrate their good faith intentions. It is the purchaser's obligation to prove that the Two-Month Notice was issued in good faith. P.S. did not attend the hearing to prove his good faith.

Strictly speaking, P.A. is a third-party to the dispute as P.S. took possession on January 1, 2022 and is now the Landlord. P.A. is only able to speak to receiving the request from P.S. on October 25, 2021 and confirming service of the Two-Month Notice. Indeed, P.A. was unable to confirm whether the Tenant, in fact, continued to occupy the rental unit and provided contradictory evidence on this point. This is understandable as she no longer has possession of the residential property. P.A. cannot speak to P.S.'s good faith intention to occupy the rental unit, which is the substantive issue in the Tenant's application, and s. 49(5) clearly rests the evidentiary burden for proving good faith with the purchaser, in this case P.S..

The hearing began as scheduled and was concluded after 20 minutes without participation from either the Tenant or the Landlord P.S., as contemplated by Rule 7.3 of the Rules of Procedure. As neither party to this dispute, being the Tenant and the Landlord P.S., attended the hearing, I hereby dismiss the application with leave to reapply.

I make no findings of fact or law with respect to the issues in dispute in the Tenant's application except as follows:

- P.A. issued the Two-Month Notice on October 25, 2021 as requested by P.S., the purchaser to the residential property;
- P.S. took possession of the residential property on January 1, 2022 as stated by P.A. at the hearing; and
- P.S. became the Landlord upon taking possession of the residential property on January 1, 2022.

This dismissal does not extend any time limitation that may apply under 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: January 18, 2022

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Residential Tenancy Branch