



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1285805 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes CNL, OLC, MNDCT, RP, RR, LRE, PSSF, OPL

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on November 29, 2021, for:

1. An Order cancelling a notice to end tenancy - Section 49;
2. An Order for the Landlord’s compliance - Section 63;
3. A Monetary Order for compensation or loss - Section 67;
4. An Order for repairs - Section 32;
5. An Order for a rent reduction - Section 65;
6. An Order restricting the Landlord’s entry - Section 70; and
7. An Order for the provision of services and facilities - Section 65.

The Landlord applied on December 22, 2021, for an Order of Possession - Section 55.

The Landlord did not attend the hearing. The Tenant was each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matters

The Landlord did not serve the Tenant with any application for dispute resolution. As the Landlord did not attend the hearing to pursue its application and given the Tenant’s

undisputed evidence that the Landlord did not serve the Tenant with the Landlord's application, I dismiss the Landlord's application.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the primary matter is whether or not the tenancy will end and as the other claims in the Tenant's application are not related to this matter, I dismiss those claims with leave to reapply.

#### Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the notice to end tenancy?

#### Background and Evidence

The tenancy started in June of 2016. Rent of \$2,200.00 was originally payable however over time it was reduced. At the outset of the tenancy the Landlord collected a security deposit of \$1,100.00. Rent of \$1,500.00 is currently payable on the first day of each month. On November 24, 2021, after being stuck on a highway for some time because of a landslide, the Tenant found a two month notice to end tenancy for landlord's use dated November 11, 2021 (the "Notice") at their unit. The Notice sets out an effective date of January 11, 2022, and that the Landlord or the Landlord's spouse will occupy the unit. The Landlord is a property developer who has bought additional properties in the surrounding area. The rental unit is in need of extensive repairs and the Tenant has been told by previous landlord's that the unit is a "tear down". The Tenant believes that because of the state of the rental unit the Landlord will either sell it or undertake extensive renovations and will not reside in the unit.

#### Analysis

Section 49(3) of the Act provides that a landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. Policy Guideline #2a provides that good faith

requires an honest intention with no dishonest motive. Good faith means a landlord does not have an ulterior purpose for ending the tenancy, and they are not trying to avoid obligations under the Act or the tenancy agreement. Based on the Tenant's undisputed evidence that the rental unit is either a "tear down" or requires extensive repairs, I find that the Tenant has substantiated that the Landlord does not have the good faith intention to occupy the unit as the Landlord's residence. The Notice is therefore not valid for its reason, and I cancel the Notice. The tenancy continues.

### Conclusion

The Landlord's application is dismissed.

The Notice is cancelled, and the tenancy continues.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: February 01, 2022

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Residential Tenancy Branch