



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ZWZ Holding Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL MNDCT FFT

### Introduction

This hearing dealt with the tenants' 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 (the "2 Month Notice") pursuant to section 49;
- a monetary order pursuant to section 67; AND
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by an agent (the "agent").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Are the tenants entitled to a monetary award and recovery of their filing fee from the landlord?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This tenancy began in January 2019. The current monthly rent is \$3,806.25 payable on the first of each month. A 2 Month Notice dated January 21, 2022 with an effective date of March 31, 2022 was issued on the tenants. The tenants filed their application to dispute the notice on January 25, 2022. The reason provided on the notice for the tenancy to end is that, *"The rental unit will be occupied by the landlord or the landlord's spouse or a close family member"*.

The agent submits that they completed the 2 Month Notice in error and should have indicated the reason as, *"The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit"*.

The landlord submitted into documentary evidence Certificate of Incorporation, Notice of Articles and Register of Directors for the corporate landlord.

The landlord submits that the owner of the family corporation intends to occupy the rental unit and provided a two paragraph signed document in support of this position. The document states:

I am writing to provide a statement here that moving back to the house is our honest intension and best option for us in this rather challenging situation with the pandemic. We are currently residing in Toronto at my friend's house with their family. Given the everlasting pandemic situation, we would like to move back to [the municipality] and stay in a single house for a better protection of the family.

The agent had little additional information to provide regarding the landlord's intentions or details of their planned return to the province.

### Analysis

Section 49(8)(a) of the *Act* provides that upon receipt of a notice to end tenancy for landlord's use of property issued under subsection (3) or (4) the tenant may, within fifteen days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I accept the undisputed evidence that the 2 Month Notice was received on or about January 21, 2022 and the tenants filed their application for dispute resolution on January 25, 2022. I therefore find that the tenants are within the time limits provided under the *Act* to dispute the 2 Month Notice.

When a tenant files an application to dispute a Notice to End Tenancy, the landlord bears the burden to prove the grounds for the 2 Month Notice. The landlord provided a single page of typewritten submission stating they intend to occupy the rental unit which has little cogent details. The landlord's agent had little information to provide regarding the landlord's stated plans and could give no details on whether they would be seeking employment in the province, details of their family composition, whether any minors would enroll in school or what has precipitated this planned move at this time.

Based on the paucity of the landlord's evidence, I find the landlord has failed to satisfy the burden of proof on a balance of probabilities, and I therefore allow the tenants' application to cancel the 2 Month Notice.

As the tenants were successful in their application, I allow them to recover the filing fee from the landlord. As this tenancy is continuing, they may satisfy this monetary award by making a one-time deduction of \$100.00 from their next scheduled rent payment.

Conclusion

The tenants are successful in their application. The 2 Month Notice is cancelled and of no further force or effect. This tenancy continues until ended in accordance with the *Act*.

The tenants are authorized to make a one-time deduction of \$100.00 from their next scheduled rent payment.

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: April 25, 2022

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Residential Tenancy Branch