



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      **FFT, CNL-4M**

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to dispute a Four Month Notice to End Tenancy for Demolition, Renovation, or Conversion to Another Use (the “Notice”) and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

### Preliminary Issues

In this case, I questioned whether the Residential Tenancy Branch had jurisdiction over this matter as the tenant had listed a commercial company as the tenant. However, after discussion on this issue. It was determined that the tenant does store items for their business on the property for work and they have a home office; however, as this is a blasting company work is offsite. The parties agreed that for all intent this is a residential tenancy. Therefore, I will accept jurisdiction over the matter. I have amended the tenant’s application by removing the tenant’s company name and inserting it with their name as listed in the notice to end tenancy.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving sufficient evidence to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The parties agreed that the tenancy commenced approximately 45 years ago. Rent in the amount of \$4,000.00 is payable on the 1<sup>st</sup> of each month.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on April 30, 2022.

The reason stated in the Notice was that:

- To convert the rental unit to a non-residential use.

The detail in the Notice are as follows:

Planned Work	Details of work
1, Phase 2 Environmental Assessment of the Property.	Following a Phase 1 Environmental Assessment of the Property, a Phase 2 was recommended and requires the removal of equipment/materials including petroleum products stored on the Property by the Tenant.
2. The Landlords will be relocating to the Property to use the Leased Premises for Office/Business Use.	No work/permitting is required for this use. The Tenant was previously provided with two months' Notice to End the Tenancy and the Board took the position that 4 months' notice was required.

Summarized the details below at the time of service. (Not required on landlord's copy; failure to

Legal counsel for the landlord submits that property has been listed as a contaminated site on the government registry and phase 2 of the environment study can not be completed until the property of the tenants is removed. Filed in evidence is a copy of the scope of the assessment.

Legal counsel states that the landlord is wanting to move their current office into the premises and use it for business use as the landlord's current office has a conditional for sale. Counsel submit that they were at a previous hearing on November 23, 2021, which

they had issued a Two Month Notice, which was cancelled because they were told they had issued the wrong form and were told that they needed to use a 4 Month Notice.

The tenant responded that they have nothing to say. The tenant stated they were simply seeking more time to vacate as they have no place to move their items that are stored on the property.

Counsel submits the tenant has a five-acre lot which they can move their belongings to that location and has had enough time to remove their property in order for the phase 2 assessment to be started and for the landlord to relocate their office.

The landlord stated that if their application is granted. Then they would agree to give the tenant until June 30, 2022, to vacate as the tenant's property must be removed for compliance reasons.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this matter, the landlord the property has to have a phase 2 environment assessment done of the property as it is listed as a contaminated site by the government. The scope of the work is extensive as set out in the report filed in evidence. I find it would be reasonable to conclude that the property to which the rental unit is on would not be fit for residential use during the environment assessment based on the scope of the work.

Further, I find it is reasonable for the landlord to relocate their office to premises since their current office has a conditional sale. This would also be beneficial to oversee the environment assessment. The tenant did not provide any evidence for me to consider, accept that they only made the application to have move time to vacate.

Based on the above, I find the landlord does intend to convert the rental unit for non-residential use. I find the Notice has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice.

The landlord has agreed that they would give the tenant additional time to vacate the premise. Therefore, I find it appropriate to extend the effective vacancy date in the Notice to June 30, 2022, pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

Since the tenant was not successful with their application, I find the tenant is not entitled to recover the filing fee from the landlord.

Conclusion

The tenant's application to cancel the Notice is dismissed. The landlord is granted an order of possession.

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: May 27, 2022

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Residential Tenancy Branch