



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, OLC

### Introduction

On February 22, 2022, the Tenants made an Application for Dispute Resolution seeking to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") pursuant to Section 49 of the *Residential Tenancy Act* (the "Act") and seeking an Order to comply pursuant to Section 62 of the *Act*.

Both Tenants and the Landlord attended the hearing. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

Service of documents was discussed; however, the parties later turned their minds to settlement discussions.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for

Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

### Issue(s) to be Decided

- Are the Tenants entitled to have the Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Are the Tenants entitled to an Order to comply?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that despite two, separate tenancy agreements being signed, the Tenants were actually co-tenants under one tenancy agreement. They agreed that the tenancy started on August 15, 2021, as a month-to-month tenancy. Rent was established at an amount of \$1,350.00 per month and was due on the first day of each month. A security deposit of \$675.00 was also paid. A copy of the signed tenancy agreements was submitted as documentary evidence.

They also agreed that the Notice was served on or around February 10, 2022, by being posted to the Tenants' door. The reason the Landlord checked off on the Notice was because "The rental unit will be occupied by the landlord or landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse). As well, the Landlord checked off the area indicating that "The landlord or the landlord's spouse" would be occupying the rental unit. The Notice indicated that the effective end date of the tenancy was April 15, 2022.

Submissions were made by both parties with respect to the reason why the Notice was served. However, the parties turned their minds to a settlement.

### Settlement Agreement

I raised the possibility of settlement pursuant to Section 56(1) of the *Act* which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties reached the following full and final settlement agreement during the hearing:

1. The Notice of February 9, 2022 is cancelled and of no force or effect.
2. The Tenants will remain in possession of the rental unit but must give up vacant possession of that rental unit on **September 30, 2022 at 1:00 PM**.
3. The Tenants must continue to pay rent to the Landlord in accordance with the terms of the tenancy agreements.
4. The Tenants are entitled to withhold September 2022 rent.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that they understood the binding nature of the settlement of this dispute.

### Conclusion

The parties reached a full and final settlement agreement in resolution of this dispute. I have recorded the terms of settlement in this Decision and in recognition with the settlement agreement, the Landlord is granted a conditional Order of Possession effective on **September 30, 2022 at 1:00 PM**, after service of the Order on the Tenants.

Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In addition, the Two Month Notice to End Tenancy for Landlord's Use of Property of February 9, 2022 is cancelled and of no force or effect.

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: June 14, 2022

---

Residential Tenancy Branch