



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL-4M

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the Four Month Notice to End Tenancy for Demolition or Conversion of Rental Unit, pursuant to section 49.

The landlord called in and requested a translator. The landlord was informed that the Residential Tenancy Branch does not provide translators, and that it is the responsibility of the parties to provide translators if necessary. The landlord requested his brother call in to assist him. The landlord's brother called in and stated that his English was not very good. The landlord was offered an adjournment to find a translator but declined and the hearing proceeded. The landlord's brother requested that his wife call in to act as a translator. The landlord's brother's wife called in and acted as a translator (the "translator"). The translator affirmed to translate from the English language to the Punjabi language and from the Punjabi language to the English language.

The tenant and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they are not recording this dispute resolution hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

Both parties confirmed their email addresses for service of this decision.

#### Preliminary Issue- Service

The tenant testified that the landlord was served with this application for dispute resolution and evidence via registered mail on March 23, 2022. A registered mail receipt stating same was entered into evidence. The landlord testified that he received the above documents sometime at the end of March 2022. I find that the landlord was served with the above documents in accordance with section 89 of the *Act*.

The landlord did not serve or submit any evidence for consideration.

#### Preliminary Issue- Amendment

The tenant's application for dispute resolution did not state the street suffix in the address of the subject rental property. Both parties agreed that the correct suffix is "street". Pursuant to section 64 of the *Act*, I amend the tenant's application for dispute resolution to include the suffix "street", in the address of the subject rental property.

#### Issues to be Decided

1. Is the tenant entitled to cancellation of the Four Month Notice to End Tenancy for Demolition or Conversion of Rental Unit (the "Four Month Notice"), pursuant to section 49 of the *Act*?

#### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began in November of 2020 and is currently ongoing. Monthly rent in the amount of \$1,200.00 is payable on the first day of each month.

The landlord testified that he personally served the tenant with the Four Month Notice at the end of February 2022 but the tenant did not sign for it.

The tenant testified that the Four Month Notice was posted on his door and that he received it on February 2, 2022.

The landlord later testified that he personally served the tenant with the Four Month Notice on January 29, 2022.

The Four Month Notice signed by the landlord and dated January 29, 2022 was entered into evidence and states "you must move out of the rental unit by April 29, 2022". The tenant's name was not written on the Four Month Notice. On page two of the Four Month Notice the landlord was required to check one of the following boxes:

- I am ending your tenancy because I am going to:
  - Demolish the rental unit.
  - Convert the residential property to strata lots under the Strata Property Act.
  - Convert the residential property into a not for profit housing cooperative under the Cooperative Association Act.
  - Convert the rental unit for use by a caretaker, manager, or superintendent of the residential property.
  - Convert the rental unit to a non-residential use.

The landlord did not select any of the above boxes and left this field blank.

Under the section which states "The work I am planning to do is detailed in the table below" the landlord wrote:

My family is coming from [another country] in first week of June so we need more space for my family I know you will understand my problem. So please leave basement until 25/05/2022.

The landlord testified that he has no intention of demolishing or converting the subject rental property. The landlord testified that he wants his parents to live in the subject

rental property.

### Analysis

The tenant testified that he received the Four Month Notice on February 2, 2022. The landlord testified that he personally served the Four Month Notice at the end of February and later changed that testimony to January 29, 2022. I find that the landlord has not proved that the Four Month Notice was served in person on January 29, 2022 as no proof of service documents stating same were entered into evidence. I accept the tenant's testimony that he received the Four Month Notice on February 2, 2022 via posting, in accordance with section 88 of the *Act*. I find that the tenant failed to dispute the Four Month Notice within the required timelines set out in section 49(8)(b) of the *Act*.

Section 49(6) of the *Act* states:

(6)A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

- (a)demolish the rental unit;
- (b)[Repealed 2021-1-13.]
- (c)convert the residential property to strata lots under the [Strata Property Act](#);
- (d)convert the residential property into a not for profit housing cooperative under the [Cooperative Association Act](#);
- (e)convert the rental unit for use by a caretaker, manager or superintendent of the residential property;
- (f)convert the rental unit to a non-residential use.

Based on the landlord's undisputed testimony I find that the landlord does not intend to end the tenancy for any of the reasons set out in section 49(6) of the *Act*. For this reason, the Four Month Notice is cancelled and of no force or effect.

In the hearing the landlord was advised that the correct notice to end tenancy for the landlord's parents to move into the subject rental property may be a Two Month Notice to End Tenancy for Landlord's Use of Property. The landlord was cautioned that I am not permitted to give legal advice regarding the above.

Conclusion

The Four Month Notice is cancelled and of no force or effect. This tenancy will continue in accordance with 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: June 14, 2022

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Residential Tenancy Branch