



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TRANSPACIFIC REALTY ADVISORS  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **CNL-4M, FFT**

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel Four Month Notice to End Tenancy for Demolition or Conversion of a Rental Unit (the “Notice”) issued on February 23, 2022.

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

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 issued be cancelled?

### **Background and Evidence**

The tenancy began on December 1, 2014. Rent in the amount of \$852.00 was payable on the first of each month. The tenant paid a security deposit of \$400.00.

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

The reason stated in the Notice was that:



ASSOCIATION ACT.

Convert the rental unit for use by a caretaker, manager, or superintendent of the residential property.

The landlord's legal counsel stated that the landlord purchased the property in August 2021 and wants to have a caretaker live on site.

The landlord's agent testified that the landlord purchased this property in August 2021 and was adding more buildings to their portfolio. The agent stated when the landlord added the third building to their portfolio they decided it was time for them to have a live-in caregiver to assist with the daily operations.

The landlord's agent testified that the landlord selected this particular unit as it is on the main floor of the building, at the back of the building and overlooks the parking area, which is noisy from the vehicles using the parking gate opening and shutting, which is right below the unit and noise from the garbage truck making it a less desirable rental unit and makes it easier for the caretaker to actively be involved with issues. The agent stated there is also an exit door right next to the rental unit to give easy access to areas of the building. Filed in evidence are photographs.

The landlord's agent testified that they have hired a live-in caretaker and their employment has already commenced; however, it has been very difficult for the caretaker to travel back and forth from where they are currently living. Filed in evidence by the landlord a copy of the employment contract for the caretaker.

The tenant questioned the landlord's agents to the availability of other units for rent at the time they had issued the Notice. The tenant indicated there was an advertising for unit 318 that shows it was available for March 1, 2022. The landlord agent responded that particular rental unit was already rented for March 1, 2022, when they issued the Notice on February 23, 2022 and is not on the main floor.

The tenant questioned how many vacant units have been available since the landlord purchased the property in August 2021 and refers to a list the tenant has provided as evidence. The landlord's agent stated that they are not sure how this is relevant as these units were not available at the time the decision was made to have a caretaker and were not available at the time they had made that decision. The agent stated that it would not make sense for the landlord to leave a rental unit vacant for this purpose when they had not made the final decision to have a caretaker.

The tenant testified that the landlord's agent statement about their rental unit being a good location for monitoring the activity of the building; however, they have installed security cameras that they can be accessed via the internet from any location.

The tenant testified that they disagree that the rental unit is the least desirable unit in the building. The tenant stated that they were the former property manager of this building that they would not have accepted the rental unit if they did not like its location and it was not given as a condition of their employment.

The tenant testified that unit 111 was used in the past as the former office that was a fully functional apartment.

Legal counsel ask the tenant if they believe if the landlord does not plan to move the caretaker on site. The tenant stated that it would only be speculating and later stated that they believe the landlord just wanted to be rid of them.

### Analysis

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

I have considered all of the written and oral submissions submitted at this hearing; I find that the landlord has provided sufficient evidence to show the reason stated in the Notice.

The landlord purchased the property back in August 2021, and at that time they had not hired a live-in caretaker. The evidence of the landlord's agent was it was not until the landlord had added other buildings to their portfolio that they made the decision that it was now the appropriate time to have a live-in caretaker to help oversee the daily needs of the buildings that they had acquired. I find that reasonable and is a business choice the landlord is entitled to make.

The evidence of the tenant was that since the landlord purchased the property in August 2021 that there have been 10 units come available. However, I do not find that relevant as that was before the landlord made the final decision to hire a live-in caretaker and at the time the only other vacant unit was unit 318, which had already been rented for March 1, 2022, and was not on the main floor.

In this case, the landlord has selected the tenant's rental unit as it is on the main floor at the back of the building, overtop the parking gate and overlooking the parking area. I find it reasonable that this would be the least desirable rental unit due to the location and the noise. Further, the landlord has the right to select any rental unit to which they have determined be the most appropriate for the caretaker.

I find there is no evidence before me from either party that leads me to believe that the landlord has an ulterior motive for ending the tenancy.

I find the Notice issued has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice. I find the tenancy will end in accordance with the Act.

As the landlord have accepted occupancy rent for the month of July 2022. I find it appropriate to extend the effective vacancy date in the Notice to July 31, 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 I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **July 31, 2022, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court.

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

### 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: July 13, 2022

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Residential Tenancy Branch