



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TOP VISION REALTY INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing dealt with the tenant's application pursuant to section 49 of 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

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

In accordance with the *Act*, Residential Tenancy Rule of Procedure 6.1 and 7.17 and the principles of fairness and the Branch's objective of fair, efficient and consistent dispute resolution process parties were given an opportunity to make submissions and present evidence related to the claim. The parties were directed to make succinct submissions, and pursuant to my authority under Rule 7.17 were directed against making unnecessary submissions or remarks not related to the matter at hand.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and instructed not to make 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?

### 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.

This periodic tenancy began approximately 10 years ago. The current monthly rent is \$1,300.46 payable on the first of each month. The rental unit is a suite in a multi-unit building. The landlord issued a 2 Month Notice dated March 28, 2022 which provides that the reason for the tenancy to end is that the landlord intends to occupy the rental unit. The tenant said they received the 2 Month Notice on March 29, 2022 and filed their application to dispute the notice on April 12, 2022.

The landlord submits that the Property Owner intends to occupy and reside in the rental unit. The owner testified that they have been living overseas but due to the Russian invasion of Ukraine have decided to return to Vancouver and occupy the rental suite. The landlord provided no documentary evidence and no additional details of their intended move.

### 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 March 29, 2022 and the tenants filed their application for dispute resolution on April 12, 2022. I therefore find that the tenant is 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. In the present case the agent and property owner both provided no documentary evidence in support of their

position and gave succinct testimony stating they intend to occupy the rental unit without any additional details or explanation.

The landlord failed to explain when they returned to the province from overseas, where they are currently residing, why they have selected the rental unit for occupation, whether they are currently employed or have ties to the area or provide details of their stated intention.

While I accept that the Russian invasion of the Ukraine has caused an ongoing refugee crisis and displacement of millions of people, I find little evidence to link the global crisis to the matter at hand. Based on the paucity of the landlord's evidence I find they have failed to satisfy the burden of proof on a balance of probabilities. I find insufficient evidence to find that the landlord intends to occupy the rental unit as they claim. Accordingly, I allow the tenant's application to cancel the 2 Month Notice.

### Conclusion

The 2 Month Notice is cancelled and of no further force or effect. This tenancy continues until ended 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: August 9, 2022

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Residential Tenancy Branch