



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for an order to cancel a 2 Month Notice to End Tenancy for Landlord’s Use pursuant to sections 49 and 55.

Both the landlord and the tenant attended the hearing. At the commencement of the hearing, the tenant testified that he vacated the rental unit on the effective date shown on the notice to end tenancy, June 30, 2022. The landlord testified that his building manager confirmed with him the tenant had moved out.

The tenant sought leave to amend his application seeking monetary compensation from the landlord instead of seeking an order to cancel the landlord’s notice to end tenancy. I declined to allow the oral application to amend the application as I found that to do so would be procedurally unfair to the landlord and bring the administration of justice into disrepute. The landlord would not have had a reasonable opportunity to prepare a response to this change in application or provide evidence relevant to this different issue. The tenant was advised he could file another application, serve it upon the landlord and have the merits of that application heard in accordance with the *Residential Tenancy Act* and Residential Tenancy Branch Rules of Procedure.

Conclusion

Pursuant to section 44(1)(a)(v), I find the tenancy ended on June 30, 2022, when the tenant vacated the rental unit, accepting the validity of the landlord’s notice to end tenancy for landlord’s use of property issued under section 49 of the Act.

As the tenancy has ended, the tenant’s application seeking to cancel the notice to end tenancy is dismissed without leave to reapply. As such, it is not necessary for me to determine on the merits whether the Notice to End tenancy was valid and I make no

findings with respect to its validity. As the tenant has already moved out of the rental unit, it is not necessary for an order of possession to be granted.

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: September 02, 2022

Residential Tenancy Branch