



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding ECO WORLD PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL, FFT

### Introduction

On January 21, 2023, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) to cancel a Two Month Notice to End Tenancy for the Landlord’s Use of the Property (the “Notice”) dated January 16, 2023, and to recover the filing fee for their application. The matter was set for a conference call.

The Landlord’s Agent (the “Landlord”) and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure requires the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Should the Notice dated January 16, 2023, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Tenant entitled to the return of their filing fee?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The parties agreed that the Notice was served by registered mail sent on January 16, 2023. The Notice indicated that the Tenant was required to vacate the rental unit as of March 31, 2023. The Tenant submitted a copy of the Notice into documentary evidence. The reason checked off by the Landlord within the Notice was as follows:

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse, or child; or the parent or child of that individual's spouse).
  - Please indicate which close family member will occupy the unit.
    - The landlord or the landlord spouse

The Landlord's Agent testified that they had been contacted by the owner and advised that the owner would be moving into the rental unit.

The Tenant testified that the cost of rental units had gone up significantly in their area and that it would be a personal hardship for them to take a new tenancy at an increased rent cost.

The Tenant also testified that due to the increase in rent that could be charged for this rental unit, they believe that this Landlord's intent must be to get them out in order to re-rent the unit at a higher cost. The Tenant was asked what made them believe this, the Tenant responded that the rate of inflation in Canada has been proven and that this, along with recent online ads for units in their area showing how much could be charged for a two-bedroom unit, proved that the Landlord must have ulterior motives. The Tenant submitted five online rental ads into documentary evidence.

### Analysis

I have carefully reviewed the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the testimony of the Landlord and the Tenant, that the Landlord served the Notice by registered mail sent to the Tenant on January 16, 2023. Pursuant to section

90 of the *Act*, I find that the Tenant was deemed to have received the Landlord Notice to end the tenancy on January 21, 2023, five days after it was mailed to the Tenant.

Section 49 of the *Act* states that upon receipt of a notice to end a tenancy, a tenant who wishes to dispute the notice must do so by filing an application for dispute resolution within 15 days of receiving the Notice. Accordingly, the Tenant had until February 5, 2023, to dispute the Notice. In this case, The Tenant filed to dispute the Notice on January 21, 2023, within the required timeline.

The Tenant's application called into question whether the Landlord had issued the Notice in good faith. The Residential Tenancy Policy Guideline 2 address the "good faith requirement" as follows:

**B. GOOD FAITH**

"Good faith means a landlord is acting honestly, and they intend to do what they say they are going to do. It means they do not intend to defraud or deceive the tenant, they do not have an ulterior purpose for ending the tenancy, and they are not trying to avoid obligations under the RTA or the tenancy agreement. This includes an obligation to maintain the rental unit in a state of decoration and repair that complies with the health, safety and housing standards required by law and makes it suitable for occupation by a tenant (section 32(1)).

If a landlord gives a notice to end tenancy to occupy the rental unit, but their intention is to re-rent the unit for higher rent without living there for a duration of at least 6 months, the landlord would not be acting in good faith.

If evidence shows the landlord has ended tenancies in the past to occupy a rental unit without occupying it for at least 6 months, this may demonstrate the landlord is not acting in good faith in a present case.

If there are comparable vacant rental units in the property that the landlord could occupy, this may suggest the landlord is not acting in good faith.

The onus is on the landlord to demonstrate that they plan to occupy the rental unit for at least 6 months and that they have no dishonest motive."

I have reviewed all of the documentary evidence before me, and I find there is insufficient evidence to prove to me, that the Landlord had issued this Notice with ulterior motives. I acknowledge the Tenant's submission that rent costs in their area have gone up significantly since their tenancy began, but I find that the Tenant's

personal belief that their Landlord wants more rent to be insufficient, on its own, to substantiate a claim that this Landlord has a dishonest motive in ending this tenancy.

Therefore, in the absence of any evidence to show or even hint at an ulterior motive by this Landlord, I must accept it in good faith that the Landlord is going to use the rental property for the stated purpose on the Notice. Consequently, I dismiss the Tenant's application to cancel the Notice dated January 16, 2023.

Pursuant to section 55 of the Act, if a tenant's application is dismissed and the Notice complies with Section 52, I am required to grant the landlord an order of possession to the rental unit.

I have reviewed the Notice, and I find the Notice dated January 16, 2023, is valid and enforceable. Therefore, I find that the Landlord is entitled to an order of possession, effective not later than two days after service on the Tenant.

Also, both parties were informed of their rights and responsibilities pursuant section 51 of the *Act*, regarding the compensation due as set out in section 51(1) and the possible compensation pursuant to 51 (2) of the *Act*, which states the following:

**Tenant's compensation: section 49 notice**

**51 (1) A tenant who receives a notice to end a tenancy under section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.**

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

**(2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if**

(a) steps have not been taken, within a reasonable period after the effective date of the notice, to accomplish the stated purpose for ending the tenancy, or

(b) the rental unit is not used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

Finally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant has not been successful in their application, I find that the Tenant is not entitled to recover the filing fee paid for this application.

### Conclusion

The Tenant's Application to cancel the Notice, dated January 16, 2023, is dismissed. I find the Notice is valid and complies with the *Act*.

I grant an **Order of Possession** to the Landlord effective not later than 1:00 p.m. on **March 31, 2023**, after service on the Tenant. The Tenant must be served with this Order. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: March 3, 2023

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Residential Tenancy Branch