



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNL

### Introduction

On November 15, 2022, 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 November 4, 2022. The matter was set for a conference call.

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.

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 November 4, 2022, be cancelled?
- If not, is the Landlord entitled to an order of possession?

### 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 tenancy agreement recorded that the tenancy began on April 1, 2021, as a month-to-month tenancy. Rent in the amount of \$750.00 is to be paid by the first day of each month, and that the Tenant paid the Landlord a \$375.00 security deposit.

The Landlord testified that the Notice was served to the Tenant on November 4, 2022, by posting it to the mailbox for the rental unit. The Notice indicated that the Tenant is required to vacate the rental unit as of January 4, 2023. Both the Landlord and the Tenant submitted a copy of the Notice into documentary evidence.

There was no reason for ending tenancy checked off by the Landlord within the Notice.

### Analysis

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

Section 52 of the Act states the following regarding a notice to end tenancy:

***Form and content of notice to end tenancy***

***52 In order to be effective, a notice to end a tenancy must be in writing and must***

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,*
  - (d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and*
- (e) when given by a landlord, be in the approved form.*

I have reviewed the Notice to end tenancy issued by the Landlord, and I noted that the Landlord failed to indicate who would be moving into the rental unit. Pursuant to section 52(d) a landlord is required to state the grounds for ending the tenancy on their Notice, In this case, the Landlord has used the Two-Month Notice to end tenancy for landlord's use of the property, and in this Notice, the Landlord must clearly state what member of the Landlord's family will be moving into the rental unit. As the Landlord has failed to indicate this in the reason section of this Notice, I must find that this Notice does not meet the form and content requirements set out by the *Act*, for a notice to end tenancy.

Consequently, I find that the Notice dated November 4, 2022, is not a valid Notice to end a tenancy, and is therefore cancelled and of no force or effect. This tenancy will continue until legally ended in accordance with the *Act*.

### Conclusion

The Tenant's application to cancel the Notice is granted, and I find the Notice dated November 4, 2022, is of no force or effect under the *Act*. This tenancy will continue until legally 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: March 28, 2023

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Residential Tenancy Branch