



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      CNR, CNC, **MNRT, AAT, PSF, LRE, OLC, FFT**

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the *Residential Tenancy Act* (the “Act”) to disputed a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the, “10 Day Notice”), to dispute a Two Month Notice to End Tenancy For Landlord’s Use of Property, (the “Two Month Notice”) issued on October 16, 2022, for monetary compensation to be paid back the cost of emergency repairs, to have the landlord allow access to the unit for me or my guests, to have the landlord provide services or facilities required by the tenancy agreement or law, to suspend or set conditions on the landlord’s right to enter the rental unit, to have the landlord comply with the Act, and to recover the cost of the filing fee.

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

The parties confirmed receipt of all evidence submissions.

### Preliminary and Procedural Issues

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the 10 Day Notice and Two Month Notice. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant’s request to set aside the above notices to end tenancy and the

tenant's application to recover the filing fee at these proceedings. The balance of the tenant's application is dismissed, with leave to reapply.

At the outset of the hearing, it was determined that the tenant did not receive a 10 Day Notice to End Tenancy for Unpaid Rent. Therefore, I do not need to consider this issue.

The parties were given approximately 40 minutes to work out a settlement as they both wanted to resolve the matter; however, the parties could not come to an agreement on the date to end the tenancy. Therefore, the hearing proceeded.

### Issue to be Decided

Should the Two Month Notice be cancelled?

### Background and Evidence

The tenancy began on June 1, 2012. Rent in the amount of \$1,100.00 was payable on the first of each month. The tenant paid a security deposit of \$500.00 and a pet damage deposit of \$100.00.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on December 31, 2022.

The reason stated in the Notice was that:

- 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). The landlord was identified as the person who will be occupying the rental unit.

The landlord testified that the tenant lives in the basement suite of their family home. The landlord stated that they no longer require the income from the rental unit to help with the mortgage.

The landlord testified that they want to be able use the basement as an extension of their home for several different reasons. The landlord stated they would like to create a dedicated home office for their job as they work from home and currently they will work in the kitchen or living room. The landlord stated that they are also a

botanist and want to have a dedicated space for their plants and to use other areas for crafting.

The tenant testified that they question the landlord intent as the landlord has been inconsistent with what they plan to do with the rental unit. The tenant stated that first it was because the landlord's relationship was breaking down, then the landlord said it was for their exercise room, office and crafts. The tenant stated that this is confusing and inconsistent, and they wonder if the landlord is being honest.

The tenant testified that their daughter was moving out of the premises between July and December 2022 and the landlord felt like it was a good time to end the tenancy. The tenant stated that throughout the tenancy the landlord would threaten them with eviction because they wanted to renovate the rental unit to obtain a higher rent.

The tenant testified that the landlord has engaged in threatening and harassing behaviour.

The landlord responded that their personal relationship was breaking down and their partner has no legal rights to the property. The landlord stated that the plan was still that they would use the basement portion of the home for their own purposes.

The landlord responded that they did take into consideration the fact that the tenant's daughter was moving out because that it would only impact the tenant and not their daughter.

The landlord responded that they have no recollection of ever saying to the tenant over the course of the tenancy that they wanted to evict the tenant to renovate the space for a higher rent. The landlord stated that the tenant's rent was low and rent was not increase yearly because they were satisfied that it was enough to help cover the mortgage. The landlord stated they now have a fulltime job and just want the basement area of the home back for their own purposes as they do not currently need the rental income.

The landlord stated that their partner as well as the tenant's guest DS would talk frequently and because their partners english was not express well that there could have been a miscommunication; however, neither of these parties have any interest in the tenancy or property. The landlord stated that they have no issues with the tenant, only with DS behaviour.

## Analysis

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

How to end a tenancy is defined in Part 4 of the Act. Section 49(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to support the reasons within the Two Month Notice.

In this case, the landlord lives in the main portion of the residence and wants to use the basement area as an extension of their home, to have a dedicate home office, for crafting and other activities. I find that reasonable.

While I accept the tenant has resided on the property for an extended period of time, over 10 years, which helped the landlord make the mortgage payment; however, I find there is no evidence that leads me to believe that the Two Month Notice was not issued in "good faith". The landlord made the decision to issue the Two Month Notice after the tenant's daughter had moved out or was in the process of moving out and no longer needed the rental income. I find that was reasonable and considerate when ending a tenancy, as often there is no consideration given when a child of the tenant is involved.

While the tenant claimed that landlord has threatened them with eviction throughout their tenancy because the landlord wants to renovate the basement to obtain a high rent; however, there is no evidence to support this, and this was denied by the landlord.

Further, if the landlord wanted to obtain a higher rent throughout the tenancy they could have issued the tenant yearly increases. However, this was not done. There is no evidence before me that the landlord has made any attempted to increase the tenant's rent contrary to the Act or is avoiding their obligations under the Act.

Furthermore, I have no supporting evidence that the landlord was harassing the tenant. While the landlord's partner and the tenant's guest may have had their own issues neither of them have any legal rights or obligations under the Act.

I note in the tenant's submission that they indicated that the landlord's partner should be named in the Two Month Notice as they may have beneficial interest in the property and that the landlord failed to mitigate their claim of relationship difficulties by not using separate bedrooms or engage in relationship counselling; however, I find that submission is unreasonable.

Even, if the landlord's partner has a beneficial interest in the property, which was not the evidence before me, that is not for me to considered. That would be a private family matter and only supreme court has jurisdiction. It is not up to the tenant to determine such issues. The landlord named in the tenancy agreement was the named landlord in the Two Month Notice.

Further, the landlord does not have to justify their personal relationship to the tenant, nor do they have to mitigate their relationship. This is not a breach of the Act and is not a claim for monetary compensation. The landlord's relationship is their private business.

In light of the above, I dismiss the tenant's application to cancel the Two Month Notice. I find the tenancy legally ended on the effective date of the Notice December 31, 2022.

As the landlord has received rent for April 2023, I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective on **April 30, 2023, at 1:00 PM**. This order must be served on the tenant and may be filed in the Supreme Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

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

### Conclusion

The tenant's application to cancel the Two Month 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: April 12, 2023

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Residential Tenancy Branch