



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding NARAMATA CENTRE SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      CNL-4M

### **Introduction**

This hearing dealt with the Tenant's application under section 49 of the *Residential Tenancy Act* (the "Act") to cancel a Four Month Notice to End Tenancy for Demolition, Renovation, or Conversion to Another Use dated January 10, 2023 (the "Four Month Notice").

The Tenant and the Landlord's representative KH attended this hearing. They were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The parties confirmed receipt of each other's documents for dispute resolution.

All attendees were informed that the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") prohibit unauthorized recordings of dispute resolution hearings.

### **Issues to be Decided**

1. Should the Four Month Notice be cancelled?
2. Is the Landlord entitled to an Order of Possession?

### **Background and Evidence**

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of this application and my findings are set out below.

The Landlord is a registered non-profit society and charity associated with the United Church of Canada. The rental unit is situated on grounds operated by the Landlord as a spiritual retreat centre (the "Centre").

This tenancy commenced on September 3, 2013 and is currently month-to-month. Rent is \$1,052.14 due on the first day of each month. The Tenant paid a security deposit of \$429.50.

Copies of the Four Month Notice have been submitted into evidence. The Four Month Notice is signed by KH on behalf of the Landlord and has an effective date of May 31, 2023. The stated reason for ending the tenancy is to "convert the rental unit to a non-residential use". The notice indicates that "no permits and approvals are required by law to do this work".

The Four Month Notice provides the following "Planned Work" (portions redacted for privacy):

We are ready to move forward to convert the residential home back to a program space for our spiritual retreat Centre. This property will specifically be used to re-establish our Healing Ministry and training program, which was located at this building from 1998 to 2013 prior to the Centre's temporary closure. We now have staff in place that can manage and lead this ministry, a key mission aligned program at [the Centre]. This building was specifically purpose-renovated with a wheelchair ramp and is the only space suitable for this ministry. In addition, with the shut down of [another building] 2 years ago due to the age and cost of operating that building, we have very limited options for programming space. This has been approved by our Board as part of an operating plan for the 2023 year and moving forward.

Additional "details of work" are stated as follows (portions redacted for privacy):

Once the tenant vacates the property at the end of May, the space will be converted back to a Healing ministry space to offer mission aligned programs at [the Centre]. The tenant understood when she first moved in that the long term plan for this space was to return it to programming space when the centre was in a position to do so, as it had previously been used for many years. We will use the month of June to covert the space back to programming space and begin to

utilize for our healing ministry in the summer of 2023, as it will not require any major work to prepare it for our healing ministry. We are providing four months notice to end tenancy to change the use as required under the Act. The landlord is zoned under a ["NC Zoning"] with [the regional district] which is the same zoning used by all of our programming space and therefore no additional zoning change is required.

The Tenant received a copy of the Four Month Notice attached to her door on January 10, 2023.

The parties had a prior Residential Tenancy Branch proceeding which dealt with a similar four month notice to end tenancy issued by the Landlord. In a decision dated March 30, 2022, the arbitrator set aside the previous four month notice to end tenancy due to insufficient evidence of the Landlord's intention to convert the rental unit. The arbitrator found that the Landlord did not provide corroborating evidence of the plan for the rental unit, such as meeting minutes, memorandums, or other communication involving the Landlord's board of directors, staff persons, and/or stakeholders.

The Landlord submits that as a spiritual retreat centre, its mission is to inspire "individual and collective transformation in a safe, inclusive, sacred space". The Landlord submits that it does not provide long-term rental housing as part of its mission and service offering. The Landlord submits that all other housing on the property is used for staff housing conditional on active employment, or short-term accommodations to participants attending programs at the Centre. The remaining buildings are used for administrative offices, programming space, and food services, all in support of the Centre's mission and service offerings.

The Landlord's evidence suggests that the Centre temporarily shut down from approximately 2013 to 2015, and during that time some units were offered as temporary housing rentals. The Landlord submits that the Centre has since re-opened and the Landlord is moving forward with plans to fully utilize the site to deliver on its mission as a spiritual retreat centre.

The Landlord submits that Healing Ministry is a place to go for "spiritual nourishment and journey towards healing for mind, body and spirit and pastoral care with a qualified practitioner and in a confidential setting". The Landlord submits that the rental unit, previously the healing house from 1998 to 2013, was chosen for conversion to a program space to operate the Healing Ministry for the following reasons:

- The building had been specifically purpose-renovated with a wheelchair ramp
- The building is located in the spiritual hub of the Centre, next to other related spiritual structures and sites
- Shut-down of other buildings due to age and cost of operation, resulting in limited options for programming space

According to the Landlord, the plan is to re-instate the healing ministry and training program with all previous offerings, including spiritual direction offerings and a healing modality program that has meditative and contemplative healing practices. Local practitioners may come to service the community as well as program participants.

The Landlord submits that no major work will be necessary to prepare the rental unit for the Healing Ministry and no zoning changes are required.

The Landlord submits that the Tenant understood when she moved in, that the rental unit was to be temporary housing until the Centre was in a position to utilize the space for mission-aligned programming.

The Landlord's evidence includes a September 2022 executive report from the board of directors, board meeting minutes dated September 30 to October 2, 2022, a revised site plan dated October 2, 2022, and a copy of the zoning bylaw.

In response, the Tenant argues that the Landlord is acting in bad faith. The Tenant denies that the Landlord requires the rental unit for programming.

The Tenant expressed that her family has lived at the house for 10 years under a long-term tenancy. The Tenant indicated that others have lived in long-term rentals on the site as well.

The Tenant argued that the Landlord has many buildings on the multi-acreage property, including buildings not in use. The Tenant submitted that the Centre runs for several months in the summer, with only a handful of guests in the off-season. The Tenant questioned the need to use the rental unit for the Landlord's Healing Ministry. The Tenant suggested that there are other properties of a similar size which are vacant and on the ground level to allow for wheelchair access. The Tenant argued that the rental unit is not quiet and not sound-proof.

The Tenant indicated that in her years of living in the community, the Centre would invite people to come together to brainstorm ideas but nothing ever comes to fruition. The Tenant stated that the Centre previously put out a site map showing the rental unit for potential sale. The Tenant submitted a 2019 board report into evidence. The Tenant stated that there are always changes. The Tenant stated that she did not believe the Centre will follow through with the plan.

The Tenant indicated the rental unit is an older building that was not being used for any purpose when she moved in. The Tenant submitted that there were obvious signs of neglect and an infestation issue. The Tenant argued that the Landlord intentionally neglected repairs and maintenance of the rental home and surrounding property. The Tenant indicated she does not believe the Landlord would be using it now as the Landlord does not want to spend more money. The Tenant argued that the Centre is not willing to spend money for renters. The Tenant argued that there is a history of the Centre not following through with its plans.

The Tenant argued that the Landlord also demonstrated bad faith in dealing with past employees. The Tenant submitted an article dated May 28, 2014 regarding the Centre's labour dispute.

The Tenant described her family situation as well as dire financial and housing difficulties.

KH explained that some of the buildings suggested by the Tenant are used by other types of ministries or have motel-style units which are not confidential or soundproof. KH emphasized that the location of the rental unit is ideal for its proximity to other spiritual centres and away from the Centre's campgrounds. KH stated that the Landlord has undertaken efforts to maintain the rental unit, including replacing the roof over the past year and finishing up the flooring. KH stated that the Landlord has been open with the Tenant about renting on a temporary basis and has been transparent about its plans. KH referred to the revised site map which shows the Centre's core and non-core lands, as well as the rental unit's location within the core lands. KH explained that the Landlord is now ready to move forward with its plan. KH indicated that the Landlord would agree for the Tenant to stay until the end of June 2023.

## Analysis

### *1. Should the Four Month Notice be cancelled?*

Section 49(6)(f) of the Act permits a landlord to end a tenancy if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to convert the rental unit to a non-residential use.

Section 52 of the Act states that in order to be effective, a notice to end tenancy given by a landlord must:

- be in writing
- be signed and dated by the landlord giving the notice
- give the address of the rental unit
- state the effective date of the notice
- state the grounds for ending the tenancy, and
- be in the approved (Residential Tenancy Branch) form.

Section 49(2)(b) of the Act further requires that the effective date of this type of notice to end tenancy to be:

- not earlier than 4 months after the date the tenant receives the notice,
- the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
- if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

I have reviewed a copy of the Four Month Notice and find that it complies with the requirements set out in sections 52 and 49(2)(b) of the Act.

I find the Tenant was served with the Four Month Notice on January 10, 2023 in accordance with section 88(g) of the Act. The Tenant made this application to dispute the Four Month Notice on January 11, 2023. I find the Tenant made this application within the 30-day time limit required under section 49(8)(b) of the Act.

Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, Rule 6.6 of the Rules of Procedure places the onus on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

In this case, the Landlord has the onus to prove that it intends in good faith to convert the rental unit to a non-residential use, and that it has all the necessary permits and approvals required by law to do so.

First, I accept the Landlord's evidence regarding appropriate zoning and that no major renovations or changes will be done, such that no permits or approvals will be necessary to convert the rental unit.

Second, I am satisfied that using the unit as programming space for a spiritual retreat centre, that is, as a healing house for quiet spiritual sessions, qualifies as a non-residential use. According to Residential Tenancy Policy Guideline 2B: Ending a Tenancy to Demolish, Renovate, or Convert a Rental Unit to a Permitted Use ("Policy Guideline 2B"), non-residential use means something other than use as living accommodation.

Regarding the issue of good faith, Policy Guideline 2B further states:

In *Gichuru v. Palmar Properties Ltd.*, 2011 BCSC 827 the BC Supreme Court found that good faith requires an honest intention with no dishonest motive, regardless of whether the dishonest motive was the primary reason for ending the tenancy. When the issue of a dishonest motive or purpose for ending the tenancy is raised, the onus is on the landlord to establish they are acting in good faith: *Aarti Investments Ltd. v. Baumann*, 2019 BCCA 165.

Good faith means a landlord is acting honestly, and they intend to do what they say they are going to do. It means they are not trying 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 MHPTA 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) of the RTA).

Based on the evidence presented, I am satisfied that the Landlord intends in good faith to convert the rental unit to a non-residential use. I find the Landlord has provided cogent reasons for choosing the rental unit as its programming space for the Centre's Healing Ministry. I accept the Landlord's evidence that the rental unit was already used as a healing house before the tenancy started and has a purpose-renovated wheelchair

ramp. I find the rental unit is close to the other spiritual centres within the core lands. I find the Landlord has supported its intention with the board meeting minutes and executive report submitted into evidence.

Furthermore, I accept the Tenant had been informed that the rental unit would be temporary housing until the Landlord was in a position to utilize the space for mission-aligned programming. I do not find the Landlord to be trying to avoid any obligations under the Act. I accept that while the plans for the Centre may have evolved, I am satisfied that the Landlord has made its decision and is prepared to proceed.

Accordingly, I uphold the Four Month Notice and dismiss the Tenant's application without leave to re-apply.

## *2. Is the Landlord entitled to an Order of Possession?*

Section 55(1) of the Act states that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if:

- the landlord's notice to end tenancy complies with section 52 of the Act in form and content; and
- during the dispute resolution proceeding, the director dismisses the tenant's application or upholds the landlord's notice.

Having found the Four Month Notice to comply with requirements of section 52 of the Act and having upheld the Four Month Notice, I find the Landlord is entitled to an order of possession under section 55(1) of the Act.

According to Residential Tenancy Policy Guideline 54. Ending a Tenancy: Orders of Possession, where the effective date on the notice to end tenancy has already passed, effective dates for orders of possession have generally been set for two days after the order is received. However, an arbitrator may consider extending the effective date of an order of possession beyond the usual two days provided. Relevant factors include the point up to which the rent has been paid and the length of the tenancy.

In this case, the Landlord is agreeable for the Tenant to stay until the end of June 2023. Therefore, pursuant to section 55(1) of the Act, I grant an Order of Possession to the Landlord effective 1:00 pm on June 30, 2023.



### Conclusion

The Landlord has provided sufficient evidence to prove that the Four Month Notice should be upheld. The Tenant's application to cancel the Four Month Notice is dismissed without leave to re-apply.

Pursuant to section 55(1) of the Act, I grant an Order of Possession to the Landlord effective **1:00 pm** on **June 30, 2023**. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 51(1) of the Act, the Tenant is entitled to receive compensation from the Landlord equal to one month's rent under the Four Month Notice. The Tenant may withhold this amount from June 2023 rent in accordance with section 51(1.1) of 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: May 31, 2023

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Residential Tenancy Branch