



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL FFT

This dispute relates to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated January 9, 2023 (2 Month Notice),
2. \$100 filing fee.

The parties and counsel attended the teleconference hearing. The parties and counsel were affirmed. The parties were provided the opportunity to present their evidence orally and in documentary form prior to the hearing. The participants were also provided an overview of the hearing process. I have only considered the evidence that was served in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). Words utilizing the singular shall also include the plural and vice versa where the context requires.

Once service was addressed, the hearing continued.

Preliminary and Procedural Matter

The parties confirmed their respective email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties.

Issue to be Decided

- Should the 2 Month Notice be cancelled?
- What should happen with the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on September 1, 2021 and converted to a month-to-month tenancy after August 31, 2022. Monthly rent is \$1,100 and due on the first day of each month.

A copy of the 2 Month Notice was submitted in evidence. The 2 Month Notice is dated January 9, 2023 and the tenant indicates they were served on January 11, 2023. The 2 Month Notice lists the following 2 reasons to end the tenancy:

Reason for this Two Month's Notice to End Tenancy (check the box that applies)

☒ 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's spouse

☐ The child of the landlord or landlord's spouse

☐ The father or mother of the landlord or landlord's spouse

Both {

☐ The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

☐ All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

☐ The tenant no longer qualifies for the subsidized rental unit.

I am giving this Notice because the purchaser asked for notice to be given)

Counsel was asked if the landlord intended to include “both” the child of the landlord or landlord’s spouse and the father or mother of the landlord or landlord’s spouse as reasons on the 2 Month Notice. Counsel acted as a translator during the hearing for the landlord who confirmed that the landlord meant to write “or” and not “both” as indicated on the 2 Month Notice. As a result, the word “both” was confirmed to be an error.

At this point in the hearing, the 2 Month Notice was cancelled for the reasons I will set out below.

Counsel stated that the landlord indicated that they were not certain who of the two listed would be able to come to Canada due to pandemic restrictions.

Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

In the matter before me, I find the owner filled out 2 reasons on the 2 Month Notice and that the landlord is not permitted to include “or” as the word “or” I find supports that the landlord is not certain who will be residing in the rental unit. This is also supported by

counsel confirming that the landlord stated that due to pandemic restrictions they were not certain.

Ending a tenancy is a serious matter and I find issuing a notice for 2 reasons where the landlord is not certain who will be coming to reside in the rental unit, that the 2 Month Notice must fail. I have reached this finding as the form itself is contradictory given that the landlord admitting they meant to write “or” instead of “both”, and the 2 Month Notice includes “both”, which cannot be true at the same time if the landlord meant to write “or”.

Given the above, I **cancel** the 2 Month Notice and remind the landlord that should they decide to serve a new 2 Month Notice, that they only select one reason under the Act. I find the 2 Month Notice is of **no force or effect**.

The landlord is at liberty to issue a new 2 Month Notice with the correct reason selected, if necessary.

I **ORDER** the tenancy to continue until ended in accordance with the Act.

As the tenant’s application was successful, I grant the tenant the recovery of the \$100 filing fee.

I **authorize** the tenant a one-time rent reduction in the amount of **\$100** from a future month’s rent in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 62(3) and 72 of the Act.

Conclusion

The 2 Month Notice dated January 9, 2023 is cancelled and is of no force or effect.

The tenancy shall continue until ended in accordance with the Act.

The tenant has been authorized a one-time rent reduction in the amount of \$100 from a future month’s rent in full satisfaction of the recovery of the cost of the filing fee.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 19, 2023

Residential Tenancy Branch