



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FFT

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a Two Month Notice to End Tenancy for Landlord's Use of Property, and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing, however only the landlord gave affirmed testimony.

The parties agree that the tenant's evidentiary material has been provided to the landlord, but not all of the landlord's evidence has been provided to the tenant. Any evidence that a party wishes to rely on must be provided to the other party, even if they already have a copy, because it is important for all parties to see what evidence has been provided for this hearing. Therefore, the evidence of the tenant, and some of the evidence of the landlord has been reviewed, and only the evidence that I find relevant to the application is considered in this Decision.

### Issue(s) to be Decided

Has the landlord established that the Two Month Notice to End Tenancy for Landlord's Use of Property was issued in accordance with the *Residential Tenancy Act*?

### Background and Evidence

The landlord testified that this month-to-month tenancy began in December, 2022 and the tenant still resides in the rental unit. There is no written tenancy agreement, however rent in the amount of \$1,500.00 is payable on the 1<sup>st</sup> day of each month and

there are no rental arrears. No security deposit or pet damage deposit was collected from the tenant. The rental unit is a basement suite, and the landlord resides in the upper level of the home. Another suite is also in the basement where the landlord's son currently resides, but it is not a legal suite and does not have a stove.

The landlord further testified that the landlord personally served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property, but does not recall when. A copy of the first 2 pages of the 4-page form has been provided by the tenant for this hearing, and it is dated 05/16/61 which the landlord testified is his birthday, and does not know the date that it was signed. The effective date of vacancy contained in the Notice is 02/05/2023, which the landlord testified means May 2, 2023, and the landlord served 1 page. The reason for issuing it states: 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), specifying the child of the landlord or landlord's spouse.

### Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, and in the case of a Two Month Notice to End Tenancy for Landlord's Use of Property, the landlord must demonstrate good faith intent to accomplish the stated purpose for ending the tenancy. Also, a notice to end a tenancy given by a landlord must be in the approved form.

In this case, the landlord does not know the date that the Notice was signed or how many pages were served or when. The landlord has not provided a copy of the Notice, and the copy provided by the tenant contains only 2 pages of the 4-page form.

Considering the evidence and the landlord's testimony, I am not satisfied that the landlord has established the date the Notice was signed or the date it was served. The first 2 pages only have been provided for this hearing, and I am not satisfied that the Notice given is in the approved form. Therefore, I cancel it and the tenancy continues until it has ended in accordance with the law.

Since the tenant has been successful with the application, the tenant is entitled to recover the \$100.00 filing fee from the landlord. I grant a monetary order in favour of the tenant as against the landlord in that amount, and I order that the tenant may reduce rent for a future month by that amount, or may serve the order to the landlord and file it

for enforcement in the Provincial Court of British Columbia, Small Claims division as an order of that Court.

### Conclusion

For the reasons set out above, the Two Month Notice to End Tenancy for Landlord's use of Property dated 05/16/61 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenant be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

This order is final and binding and may be enforced.

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: June 27, 2023

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Residential Tenancy Branch