



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL, DRI, LRE, FFT

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking the following relief:

- an order cancelling a Two Month Notice to End Tenancy for Landlord's Use of Property;
- disputing a rent increase;
- an order limiting or setting conditions on the landlord's right to enter the rental unit or property; and
- to recover the filing fee from the landlord for the cost of the application.

All tenants and the landlord attended the hearing, and the landlord was accompanied by the landlord's spouse. and the landlord's daughter, who acted as agent for the landlord. The landlord's agent and one of the tenants gave affirmed testimony and the parties were given the opportunity to question each other and to give submissions.

The landlord has not provided any evidence, and no issues were raised with respect to the evidence of the tenants. Therefore, all evidence of the tenants has been reviewed and the evidence 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 given in accordance with the *Residential Tenancy Act* and in good faith?
- Have the tenants established that rent has been increased contrary to the law?
- Have the tenants established that the landlord's right to enter the rental unit should be limited or allowed conditionally?

### Background and Evidence

**The landlord's agent** testified that this month-to-month tenancy began on November 1, 2013 and the tenants still reside in the rental unit. Rent in the amount of \$1,500.00 was initially payable on the 1<sup>st</sup> day of each month, which has been increased and the tenants currently pay \$2,050.00 per month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$750.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a single family house. A written tenancy agreement exists, but a copy has not been provided for this hearing.

The landlord's agent further testified that on April 3, 2023 the landlord's agent and the landlord's spouse served the tenants with a Two Month Notice to End Tenancy for Landlord's Use of Property by posting a copy to the door of the rental unit and by placing a copy in the mailbox. A copy of the first 2 pages of the Notice has been provided by the tenants for this hearing. It is dated April 3, 2023 and contains an effective date of vacancy of June 3, 2023. 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). The landlord's agent testified that she printed the form from the Residential Tenancy Branch website, and served all pages to the tenants, but have not provided a copy of what was served.

The Notice was given so that the grandparents of the landlord's agent can move in due to mobility issues, who currently reside with the landlord. The landlord's mother uses a walker and the landlord's home is not suitable for the mobility issues due to stairs.

On March 4, 2023 the landlords attended the rental unit to discuss ending the tenancy with the tenants by way of a Mutual Agreement to End Tenancy, but was met with threatening behaviour by the tenants, with arms up, and the tenant ripped up the Mutual Agreement to End Tenancy and said they were not moving. They wouldn't listen to the landlord, just yelled.

The landlord has never gone to the rental property without invitation by the tenant for repairs. The landlord and family lives an hour away.

**The tenant** testified that the landlord wanted to increase rent by \$100.00 in 2015, then wanted \$400.00 or the tenants should leave. The tenant's parents are old people, and the tenants agreed to the increase. Then the landlord wanted \$500.00 cash and another increase.

The basement does not have a legal suite, and the landlord said he would rent it. In April, 2023 the landlord called saying he was going to collect rent and change the locks to the basement, but the tenants disagreed saying that rent could only be increased according to the law.

With respect to the application for an order limiting or setting conditions on the landlord's right to enter the rental unit, the tenant testified that the landlord arrived at the rental unit and told the tenants they had to move.

The tenant denies being threatening toward the landlord.

In 2021 the tenant asked the landlord for a copy of the tenancy agreement, but the landlord refused the request.

### 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*. Also, in the case of a Two Month Notice to End Tenancy for Landlord's Use of Property the landlord must establish good faith intent to use the rental unit for the purpose contained in the Notice.

In this case, the landlord has not provided any evidentiary material, and the tenants have provided 2 pages only of a 4-page Notice. The law requires that any Notice given by a landlord must be in the approved form. Since I only have 2 of the 4-page Notice, I cannot be satisfied that the Notice given was in the approved form. Therefore, I cancel the Notice and the tenancy continues until it has ended in accordance with the law.

With respect to the tenant's application disputing a rent increase, the tenant testified that the landlord wanted another increase with \$500.00 in cash. That is contrary to the law, however it is disputed by the landlord. Since the tenants agreed to previous increases, and I have no evidence to support the tenants' claim that rent has been increased contrary to the law, I dismiss that portion of the tenants' application, however, I offer the following: a landlord may only increase rent once per year, in the amount provided by the regulations, and the landlord must serve the tenants with a Notice of Rent Increase in the approved form no less than 3 months before the increase takes effect, unless the tenants otherwise agree in writing.

The landlord also disputes that the landlord has entered onto the property without giving at least 24 hours written notice, and the landlord's agent testified that the landlord has

attended at the request of the tenants for repairs, and that the landlord's residence is an hour away from the rental unit. A landlord may enter onto rental property if the tenant agrees at the time of entry or with written notice which must indicate the date, time and reason for entry, which must be reasonable. I am not satisfied that the tenants have established that the landlord has not complied and I dismiss that portion of the tenants' application.

I also accept the undisputed testimony of the tenant that the landlord wants to convert the basement of the rental unit to another rental unit. The tenants are tenants of the entire rental home, and the landlord may not take over any portion or convert it to another use.

The law also requires a landlord to provide the tenants with a copy of the tenancy agreement. I accept the undisputed testimony of the tenant that the landlord has refused to provide the tenants with a copy, and I order the landlord to do so.

Since the tenants have been partially successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenants as against the landlord in that amount, and I order that the tenants be permitted to 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 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

I hereby order the landlord to provide the tenants with the written tenancy agreement that was signed by the parties at the beginning of the tenancy.

The tenants' application disputing a rent increase is hereby dismissed.

The tenants' application for an order limiting or setting conditions on the landlord's right to enter the rental property is hereby dismissed.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I

order that the tenants 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: July 14, 2023

---

Residential Tenancy Branch