

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

This hearing dealt with the tenant's application to cancel a *2 Month Notice to End Tenancy for Landlord's Use of Property* and to recover the filing fee paid for this application. Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to the submissions of the other party. Both parties confirmed service of documents upon them.

### Issues(s) to be Decided

1. Is there a basis to cancel the Notice to End Tenancy?
2. Can the parties reach a mutual agreement to resolve this dispute?

### Background and Evidence

The parties provided undisputed evidence as follows. The tenancy commenced October 1, 2009 and the tenant paid a \$700.00 security deposit. The tenant is required to pay rent of \$1,400.00 on the first day of every month. The tenancy agreement reflects that the tenancy is on a month-to-month basis. On March 31, 2010 the landlord issued a *2 Month Notice to End Tenancy for Unpaid Rent* (the Notice) and served it upon the tenant by leaving it in the tenant's mailbox on March 31, 2010. The Notice provides for two reasons for ending the tenancy:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.
- The landlord has all the necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

The tenant disputed the Notice within the time limit imposed by the Act and I proceeded to hear from both parties about their respective positions related to the issuance of the Notice. It was also not in dispute that the tenant has not paid rent for May or June 2010.

After hearing from both parties, the parties were able to reach a mutual resolution that I record as follows:

1. The tenancy will continue until June 30, 2010 at which time the tenancy shall end by mutual agreement.
2. The tenant, and all other occupants, will vacate the rental unit no later than June 30, 2010.
3. The tenant forfeits the security deposit in satisfaction of one-half of the unpaid rent for May 2010.
4. The landlord will compensate the tenant for ending the tenancy the equivalent of one and one-half month's rent by not requiring payment of the remainder of the unpaid rent for May 2010 or rent for June 2010.
5. The tenant will leave the rental unit reasonably clean and undamaged at the end of the tenancy.
6. The landlord retains the right to make a claim for damages by making an Application for Dispute Resolution if the rental unit is not left reasonably clean or the rental unit is left damaged by the tenant, except for normal wear and tear.

### Analysis

I accept the mutual resolution reached by the parties during the hearing and make it an order to be binding upon both parties. To ensure the tenant vacates the rental unit no later than June 30, 2010 I provide an Order of Possession to the landlord to enforce if necessary.

The issue of unpaid rent for May and June 2010 has been resolved with this decision and the landlord may not make any future claim for unpaid rent for May or June 2010. However, the landlord retains the right to claim for damage to the rental unit if the tenant fails to meet her obligation under the Act to leave the rental unit reasonably clean and free of any damage caused by the tenant, except for normal wear and tear.

In recognition of the mutual agreement and my order, the landlord is hereby authorized to retain the tenant's security deposit.

For further clarity, since the tenancy will end by mutual agreement the landlord is not obligated to fulfill the reasons as indicated on the 2 Month Notice and the tenants may not make any future claim under section 51 of the Act.

As the parties have reached a mutual resolution as recorded above, I make no further order with respect to recovery of the filing fee paid for this application.

### Conclusion

The tenancy shall end on June 30, 2010 by mutual agreement. The landlord is authorized to retain the tenant's security deposit and the issue of unpaid rent for May 2010 and June 2010 has been resolved with this mutual agreement. The landlord has been provided an Order of Possession effective June 30, 2010 to ensure compliance with this decision.

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 03, 2010.

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Dispute Resolution Officer