



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use ("2 Month Notice") pursuant to section 49.

Both parties attended this hearing. The tenant/applicant attended with an assistant/translator and the landlord attended on his own. Both parties were given a full opportunity to testify and make submissions. The landlord testified that he did not feel it was necessary to serve his photographic evidence to the tenant as the tenant was aware of the condition of his rental unit and the evidence was intended to show the condition of the unit. The tenant's representative testified that he had been unable to serve the landlord with a copy of the tenant's documentary evidence because there had been a death in the family. Based on the assertion of both parties that they wished to proceed with the tenant's application on this hearing date and the admission of each party that they failed to serve their evidence to the other party, I will not consider the documentary submissions of either party. I note that I received one of two pages of the 2 Month Notice to End Tenancy.

### Preliminary Issue: Proper form and content of Notice to End Tenancy

Section 52 of the Act requires a notice to end tenancy to meet a standard as provided below,

**52** In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,

- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
- (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

In this case, the landlord signed and dated the notice, providing an effective date of August 31, 2017. He also provided an address of the rental unit although the tenant disputes that the address shows the correct unit number. Section 52(d) requires the landlord, on a notice to end tenancy, to state the grounds for ending the tenancy. The notice to end tenancy submitted as evidence at this hearing included only 1 of 2 pages therefore it was not possible to confirm the ground upon which the landlord intended to rely in this notice or confirm that the ground upon which he relies was conveyed to the tenant.

Section 52(e) requires a landlord to provide a tenant with a notice to end tenancy in the approved form. The 2 Month Notice submitted as evidence for this hearing and relied upon by the landlord is very dated and does not include all information to the tenant that is provided on the most up to date form for a 2 Month Notice to End Tenancy.

Section 68 of the *Residential Tenancy Act* discusses the requirements for a Notice to End Tenancy within the Dispute Resolution Hearing process,

**68** (1) If a notice to end a tenancy does not comply with section 52 [*form and content of notice to end tenancy*], the director may amend the notice if satisfied that

- (a) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and
- (b) in the circumstances, it is reasonable to amend the notice.

(2) Without limiting section 62 (3) [*director's authority respecting dispute resolution proceedings*], the director may, in accordance with this Act,

- (a) order that a tenancy ends on a date other than the effective date shown on the notice to end the tenancy, or
- (b) set aside or amend a notice given under this Act that does not comply with the Act.

In this case, I have only 1 of 2 pages of the Notice to End Tenancy as evidence. Given that the landlord cannot prove that the tenant has been suitably informed of the reasons for the end of his tenancy, I find that the tenant/respondent would not have known the information that was omitted. Furthermore, neither party was able to provide me with the grounds relied upon to end tenancy at this hearing.

I decline to amend, repair or have resubmitted the notice to end tenancy in this case. The landlord has not merely omitted or described in error a date on the notice or misspelled a name: the landlord has failed to provide the grounds upon which the landlord relies to end the tenancy. Nor has the landlord merely failed to provide detail that can be further explored at the hearing – he has also used a form that is dated and therefore provides incorrect or incomplete information to the tenant being served with this notice.

In this case, I find that the error is too great and the consequences too severe to allow the landlord's notice to stand. In these circumstances, where the tenant has applied to cancel a notice to end tenancy and the landlord bears the burden of proving the validity of the notice and the grounds upon which it was issued and when the "good faith" intent of the landlord is called into question in the issuance of the 2 Month Notice, I grant the tenant's application to cancel the notice to end tenancy. This tenancy will continue.

### Conclusion

I grant the tenant's application to cancel the notice to end tenancy. This tenancy will continue.

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: August 25, 2017

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Residential Tenancy Branch