



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes CNL- 4M, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's (the landlord's) 4 Month Notice to End Tenancy for Landlord's Use of Property (the 4 Month Notice) pursuant to section 49; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

Only the tenant appeared at the hearing. The tenant provided affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The tenant testified and supplied documentary evidence that he served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on November 29, 2018, and deemed received under section 90 of the Act five days later. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue(s) to be Decided

Should the landlord's 4 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to recover the filing fee for this application from the landlords?

### Background and Evidence

The tenant gave undisputed sworn testimony that he moved into the suite on July 1, 2013. The tenant testified that the rent is \$600.00 per month. The tenant testified that he received the 4 Month Notice issued by landlord on October 28, 2018 for the following reason:

- *convert the rental unit for use by a caretaker, manager or superintendent of the residential property.*

The tenant testified that the notice was given in bad faith as the landlord has issued previous notices to end the tenancy for landlords' use of property. The tenant stated that he thinks the landlord wishes to end the tenancy so that he can rent the unit at a higher rate and has no intention of doing what is stated on the notice. The tenant testified that he will be moving out at the end of June 2019.

### Analysis

When a landlord issues a notice under section 49 of the Act, and the tenant challenges the "good faith" of the issuance of the notice; the landlord bears the burden to provide sufficient evidence to support the issuance of that notice. Although the landlord was deemed served, they chose not to attend today's hearing or submit any documentation. I find that the landlord has not provided sufficient evidence to support the issuance of the notice, accordingly; I hereby cancel the notice. The tenancy continues. As the tenant was successful in their application, they are entitled to the recovery of the \$100.00 filing fee for this application. The tenant is entitled to a one time rent reduction of \$100.00 from the next rent payable.

### Conclusion

The 4 Month Notice to End Tenancy dated October 28, 2018 is cancelled, it is of no effect or force. The tenancy continues.

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: January 10, 2019

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Residential Tenancy Branch