



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, DRI, LAT, 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 notice to end the tenancy for landlord's use of property;
- disputing a rent increase;
- an order permitting the tenants to change the locks to the rental unit;
- an order suspending or limiting or setting conditions on the landlord's right to enter the rental unit; and
- to recover the filing fee from the landlord for the cost of the application.

One of the tenants attended the hearing, as well as a person identified as the new landlord. The parties each gave affirmed testimony and were given the opportunity to question each other and to give submissions.

During the course of the hearing the parties testified that the new owners have taken possession of the rental building. I found that, in considering the principles of administrative fairness, that neither the tenants nor the previous landlord, nor the new landlords would be prejudiced, and I amend the application to include the name of the landlord who attended the hearing.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and 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* and in good faith?
- Have the tenants established that rent has been increased contrary to the law?

- Have the tenants established that the tenants should be permitted to change the locks to the rental unit?
- Have the tenants established that the landlord's right to enter the rental unit should be allowed conditionally or suspended?

### Background and Evidence

**The landlord** testified that the landlord purchased the rental property, taking possession on July 7, 2022 and the tenants were residing in the rental unit at that time, and had been for about 8 years, and still reside there. Rent in the amount of \$1,600.00 is payable on the 1<sup>st</sup> day of each month and there are no rental arrears. The landlord currently holds a security deposit in the amount of \$800.00, and no pet damage deposit had been collected. The rental unit is a suite on the property beside a unit that is now occupied by the current landlords. There is also a coach house on the property which is also occupied by tenants.

The rental home was purchased by the landlord and husband, as well as the landlord's sister and her husband; there are 4 owners now on title. The landlord and husband need to occupy the rental unit because the landlord's sister has a 2 year old and is expecting another child. The landlord is attending school in early September, 2022 and needs to focus on school, and they need their privacy.

The landlord further testified that the previous owner served the tenants personally with a Two Month Notice to End Tenancy for Landlord's Use of Property on April 28, 2022, a copy of which has been provided by the tenants for this hearing. It is dated April 28, 2022 and contains an effective date of vacancy of June 30, 2022. The copy provided does not contain checkmarks beside any of the recitals, however is accompanied by a document entitled Tenant Occupied Property – Buyers Notice to Seller for Vacant Possession. It is signed by 4 owners digitally, and the landlord testified that she did sign the document.

The landlord is aware of the consequences set out in the *Act*, and is aware that the tenants must be provided with the equivalent of 1 month's rent.

**The tenant** testified that the tenancy began in January, 2021, not 8 years ago.

During the first week of April, 2022 the real estate agent and landlords asked the tenants to increase rent to \$2,200.00, then later the tenants agreed to increase it to \$1,800.00 per month. No conversations took place for the rest of the month, but on the

26<sup>th</sup> or 27<sup>th</sup> of April the tenant received a notice from the old landlord saying that the new landlords wanted to see the property and the tenant agreed. The next evening the tenant received the Two Month Notice to End Tenancy for Landlord's Use of Property.

The tenant further testified that the tenant has not been able to find daycare, but has now found another rental unit with daycare close by, but cannot move until October 1, 2022.

During the visit by the new landlord, they opened the cabinets, which annoyed the tenant. The verbal agreement was breached, which is the main thing, and once trust has been broken, the tenant cannot trust the new landlord, and seeks an order limiting or setting conditions on the landlord's right to enter the rental unit and permission to change the locks.

### Analysis

Firstly, the tenants have named the previous landlord as the respondent in this application, and rightly so since the previous landlord gave the Two Month Notice to End Tenancy for Landlord's Use of Property. The application was filed on April 30, 2022, and on May 11, 2022 the Residential Tenancy Branch sent the Notice of Dispute Resolution Proceeding to the tenants scheduling this hearing for August 30, 2022. However, the new landlords took possession of the rental unit on July 7, 2022, and the previous landlord no longer has any rights, and did not attend the hearing.

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*, which can include the reason(s) for issuing it. 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, without an ulterior motive.

I have reviewed the Notice which states: "Reason for this Two Month's Notice to End Tenancy (check the box that applies)," but there are no boxes to check. It also states: "Purchaser Information: (complete only if issuing this Notice because the purchaser asked for notice to be given)," and the names of 2 of the purchasers have been written in. It is also accompanied by a document entitled, "Tenant Occupied Property – Buyers Notice to Seller for Vacant Possession," which requests that the seller give the notice to the tenants pursuant to the *Residential Tenancy Act* requiring the tenants to vacate the

property by June 30, 2022. I find that the Notice is in the approved form and contains information required by the *Act*.

The tenant testified that the tenants and purchasers had a verbal agreement to increase rent, and then perhaps had a change of heart and issued the Notice. That is disputed by the new landlord. There is no evidence to support any verbal agreement or to increase the rent.

The new landlord testified that the rental property was purchased by 4 members of her family and that the landlord and husband require the suite to live in. The new landlord also testified that she will be attending school and needs to focus on that without interruptions from the other owners, and I accept that. The *Act* specifies that a landlord may give such a Notice if the landlord intends in good faith to accomplish the stated purpose contained in the Notice. I am satisfied that the landlord has established good faith intent without an ulterior motive.

Therefore, I dismiss the tenants' application.

The law also states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the Notice given is in the approved form. Having found that it is in the approved form, I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenants. Having found that the previous landlord no longer has any rights to the rental unit, I grant the Order of Possession in favour of the landlord who attended the hearing.

Since the tenancy is ending, I dismiss the balance of the tenants' application without leave to reapply.

### Conclusion

For the reasons set out above, the tenants' application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenants.

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: August 30, 2022

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Residential Tenancy Branch