



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL FFT

This dispute relates to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated January 9, 2023 (2 Month Notice),
2. Recover the cost of the filing fee of \$100.

The parties attended the teleconference hearing. The parties provided affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing. The parties were also provided an overview of the hearing process. I have only considered the evidence that was served in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). Words utilizing the singular shall also include the plural and vice versa where the context requires.

Neither party raised any concerns regarding the service of documentary evidence. Both parties were given the opportunity to ask questions.

Preliminary and Procedural Matter

The parties confirmed their respective email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties.

Issue to be Decided

- Should the 2 Month Notice be cancelled?
- Is the tenant entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on September 1, 2016 and converted to a month-to-month tenancy after September 1, 2017. Monthly rent is \$1,000 and due on the first day of each month.

A copy of the 2 Month Notice was submitted in evidence. The 2 Month Notice is dated January 9, 2023 and lists the following 2 reasons to end the tenancy:

Reason for this Two Month's Notice to End Tenancy (check the box that applies)

☒ 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).

Please indicate which close family member will occupy the unit.

☒ The landlord or the landlord's spouse

☐ The child of the landlord or landlord's spouse

☐ The father or mother of the landlord or landlord's spouse

☒ The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

☐ All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

☐ The tenant no longer qualifies for the subsidized rental unit.

The landlord and agent were asked why 2 reasons were selected on the 2 Month Notice. The agent stated that it appeared to be a mistake.

During the hearing, the parties were advised that both reasons could not be true at the same time and as such, I was cancelling the 2 Month Notice, which I will explain in further detail below.

Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

2 Month Notice issued by landlord – Section 52 of the Act applies in this case and states:

Form and content of notice to end tenancy

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.**
[emphasis added]

In the matter before me, I find the owner filled out 2 reasons on the 2 Month Notice and that the landlord is an individual and not a family corporation. Given the above, I find that both reasons listed could not be true at the same time and that the 2 Month Notice is not in the approved form as a result.

Given the above, **I cancel** the 2 Month Notice and remind the landlord that should they decide to serve a new 2 Month Notice, that they only select one reason under the Act. I find the 2 Month Notice is of **no force or effect**. The landlord is at liberty to issue a new 2 Month Notice with the correct reason selected.

I ORDER the tenancy to continue until ended in accordance with the Act.

As the tenant's application was successful, I grant the tenant the recovery of the \$100 filing fee. **I authorize** the tenant a one-time rent reduction in the amount of **\$100** from a future month's rent in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 62(3) and 72 of the Act.

Conclusion

The 2 Month Notice dated January 9, 2023 is cancelled and is of no force or effect.

The tenancy shall continue until ended in accordance with the Act.

The tenant has been authorized a one-time rent reduction in the amount of \$100 from a future month's rent in full satisfaction of the recovery of the cost of the filing fee.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 6, 2023

Residential Tenancy Branch