



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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A matter regarding Mandalay Terrace Apartments Holdings Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Code: CNL

### Introduction

The Tenant seeks to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") under section 49(8) of the *Residential Tenancy Act* (the "Act").

### Issue

Is the Tenant entitled to an order cancelling the Notice?

### Evidence and Analysis

The tenancy began roughly 27 years ago. Monthly rent is \$991.40.

On February 23, 2023, the Landlord's agent served the Notice on the Tenant by registered mail. The Tenant filed their application to dispute the Notice on February 28, 2023. A copy of the Notice was submitted into evidence.

The Notice includes the Landlord's name, "Mandalay Terrace Apartments Holdings Ltd." On page two, the reason for the Notice being given was that "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)." Below that is an indication that the "child of the landlord or landlord's spouse" will occupy the rental unit.

There are only two methods by which a landlord may end a tenancy so that they or a close family member can occupy a rental unit. The first method is section 49(3) of the Act, which states the following (my emphasis): "A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit."

The second method is section 49(4): “A landlord that is a family corporation may end a tenancy in respect of a rental unit if 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.”

The Landlord, as indicated on the Notice, is a corporation. However, the Notice indicates that the “landlord” intends to have the “landlord’s son” occupy the rental unit. While a corporation is considered a legal person under the law, a corporation cannot have offspring. In other words, the Notice fails because Mandalay Terrace Apartments Holdings Ltd. is not, I find, a landlord who is an individual as contemplated and required by section 49(3) of the Act.

If Mandalay Terrace Apartments Holdings Ltd. is, however, a family corporation, then a properly completed Two Month Notice to End Tenancy for Landlord’s Use of Property must be issued. Documentary evidence that the Landlord is a family corporation would, of course, be both required and expected to be provided at any future dispute resolution hearing should any such notice to end the tenancy ever be disputed.

For these reasons, the Tenant is entitled to an order cancelling the Notice. The Two Month Notice to End Tenancy for Landlord’s Use of Property, served on February 23, 2023, is cancelled effective immediately.

As a brief aside, the Landlord’s agent asked about correcting errors on notices to end tenancy. On this point, I (perhaps less than eloquently) explained that such corrections would not apply in this instance. Rather, these types of corrections only apply to incorrect effective dates, as set out in section 53 of the Act.

### Conclusion

**I grant the Tenant’s application.**

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: April 14, 2023

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Residential Tenancy Branch