



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding DHARMA REALM BUDDHIST  
ASSOCIATION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL FFT

This dispute relates to the tenants' 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 October 12, 2022 (2 Month Notice),
2. Recover the \$100 filing fee.

Those listed on the cover page of this decision attended the teleconference hearing which began on March 6, 2023 and after 60 minutes was adjourned to allow additional time for all parties to present all of their evidence and make their submissions. On March 23, 2023, the hearing continued and was adjourned after an additional 63 minutes to allow additional time for all parties to present all of their evidence and make their submissions. On April 21, 2023, the hearing continued and after an additional 56 minutes the hearing concluded. In total, the hearing lasted 179 minutes.

Two Interim Decisions were issued which should be read in conjunction with this decision.

All parties and witnesses were affirmed, with the exception of counsel who was not affirmed as they are an officer of the court. The parties were provided the opportunity to present their evidence orally and in documentary form prior to the hearing. Counsel was permitted to make submissions. 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) and relevant to the matters before me. 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. As a result, I find there are no service issues under the Act.

### Issues to be Decided

- Should the 2 Month Notice be cancelled?
- If yes, are the tenants entitled to recover the cost of the filing fee?

### Background and Evidence

A copy of the 2 Month Notice was submitted in evidence. The 2 Month Notice is dated October 12, 2022 and has an effective vacancy date listed as December 31, 2022, which has passed. The reason stated on page 2 is as follows:

**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 tenants applied to dispute the 2 Month Notice on October 27, 2022, which is within the 15-day timeline provided for under the Act.

### Preliminary Matter

Before I include other witness testimony and other evidence presented, I will first consider and make a finding on whether the landlord in this matter 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.

DMY, also known as TCK/JYS was affirmed and confirmed the following:

1. They are a representative for the landlord,
2. The landlord gets charity as an organization,
3. They do not own any assets or property,

4. They were added to the list of directors a couple of years ago at the request of a Master,
5. As an organization they need to gather up frequently for discussion of different rules and regulations, mainly regarding the practice of religion.

Counsel submitted that the landlord is a non-profit organization and qualifies as a family corporation. Both parties provided documentary evidence from a Government of Canada website, which confirms the landlord has been a registered “charitable organization” since 1984-03-16 (Registered Charity). The tenants provided a copy of the list of directors for the landlord/Registered Charity, which lists a total of 21 directors between fiscal period January 1, 2021 to December 31, 2021 (2021 List), but does not specifically name TCK or JYS on the list of directors. The 2021 List also confirms that each of the 21 directors are at arms length from the other directors.

DMY confirm that they also go by BC-KT/BC-KT, which does match one of the 20 directors on the December 9, 2022 Directors List submitted in evidence by the landlord (2022 List).

There was no evidence presented to support that the 20 names listed on the 2021 List and the 21 names listed on the 2022 List were related or from the same family. The tenants argue that the landlord is not a family corporation.

The landlord included a copy of the Land Title records which confirms that the only registered owner of the property is the DRBA. There are no individual persons listed on the Land Title records who would have a voting share in the corporation.

### Analysis

Based on the above and on the balance of probabilities, I find the following.

The onus of proof is on the landlord to support that the 2 Month Notice is valid. I have carefully considered the evidence and submissions and I find that a Registered Charity does not meet the definition of a family corporation. I based my finding on the Black’s Law definition of family corporation which is:

“a corporation whose stock is held largely by one family”.

I find the landlord has failed to provide sufficient evidence to support that the 2021 List or the 2022 List include members of one family. Furthermore, I find the Land Title records do not list any voting shares and therefore the landlord is not a family

corporation. Given the above, I find the landlord may not rely on the reason listed on the 2 Month Notice. Therefore, I cancel the 2 Month which renders the 2 Month Notice of no force or effect.

Given the above, I find there is no need to include all of the other submissions and evidence presented as the 2 Month Notice is cancelled based on the preliminary finding and would not change based on any other evidence presented or submissions as a result.

**I ORDER** the tenancy to continue until ended in accordance with the Act pursuant to section 62(3) of the Act. As the tenants' application is successful, I find that the tenants are entitled to monetary compensation pursuant to section 67 of the Act, in the amount of **\$100**.

**I ORDER** a one-time rent reduction in the amount of \$100.00 from a future month of rent in full satisfaction of the tenants' recovery of the cost of the filing fee pursuant to section 62(3) of the Act.

### Conclusion

The 2 Month Notice dated October 12, 2022 is cancelled and is of no force or effect. The tenancy shall continue until ended in accordance with the Act. The tenants have been granted a one-time rent reduction of \$100 as full recovery 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: May 17, 2023

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Residential Tenancy Branch