



First American
Title Insurance Company



Escrow Tip

Brought to you by your Northwest Escrow Team

SUBJECT: Buyer can send Proper Cancellation
before Expiration of Inspection Period

During the inspection period, the Buyer determined in good faith that the size of the master bedroom was too small. The Buyer delivered a Buyer's Inspection Notice and Seller's Response ("BINSR") cancelling the contract, but the Buyer failed to state in the BINSR any reason for the cancellation. The Seller refused to accept this BINSR cancelling the contract because there was no reason for the cancellation. Prior to the expiration of the inspection period, however, the Buyer delivered a second BINSR specifying that the size of the master bedroom was the reason for the cancellation. The Seller is demanding that the Buyer either close the transaction or forfeit the earnest money because there was no valid cancellation of the contract during the inspection period. Did the Buyer properly cancel the contract with the second BINSR even though the first BINSR failed to state any reason for the cancellation?

YES. The contract, lines 230-231, requires that during the inspection period the "Buyer shall deliver to Seller a signed notice of any items disapproved." The first BINSR did not comply with lines 230-231 (and also lines 234-235 of the contract) because there was no notice of the items disapproved. Therefore, the first BINSR was a nullity, i.e. of no legal effect, and the second BINSR within the inspection period specifying the disapproval of the size of the master bedroom properly cancelled the contract.

Note: The Buyer is not, however, entitled to "two bites of the apple" during the inspection period. For example, if the Buyer delivers a first BINSR during the inspection period properly requesting repairs, e.g., roof repairs, the Buyer cannot then deliver during the inspection period a second BINSR cancelling the contract because of the roof repairs or any other reason, e.g. termites discovered after the first BINSR.

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