## DECISION

### Introduction

This hearing dealt with the tenant's application to cancel a Notice to End Tenancy for cause.  Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to the other party's submissions.

### Issues(s) to be Decided

1.  Should the Notice to End Tenancy be upheld or cancelled?
2.  Can the parties reach a mutual resolution to this dispute?

### Background and Evidence

I heard undisputed testimony that the JK is a lessee under a tenancy agreement with the owner of the residential property and that GS is required to pay JK rent of $400.00 on the 1$^{st}$ day of every month, plus utilities.  The tenant has been occupying the den in the residential property since June 2009 and has shared access to the kitchen and bathroom facilities.  Besides JK and GS, there are two other occupants living at the residential property.  Another occupant , RN, appeared at the hearing as a witness for the landlord.

On January 20, 2010 JK issued a *1 Month Notice to End Tenancy for Cause* to GS. The Notice was personally served upon the GS; however, the parties provided different testimony as to what date it was served.  I have determined that GS disputed the Notice within the time limit provided under the Act in any event.  The tenant paid rent for the months of February and March 2010.

After hearing much disputed testimony, the parties were able to reach a mutual agreement to resolve this dispute that I record as follows:

1. The tenancy shall continue until March 31, 2010 at which time the tenant, GS, will be required to vacate the den and residential property.
2. The tenant agrees to treat all other occupants and the landlord courteously and respectfully until such time the tenancy ends.

The parties enquired about return of the security deposit. The parties were briefly informed of what is expected of both parties at the end of a tenancy; however, both parties are encouraged to contact the Residential Tenancy Branch via telephone, email or visit www.rto.gov.bc.ca to obtain further information.

Analysis

Having heard the tenant has exclusive possession of the den, I find the den constitutes the "rental unit" as defined by the Act. The shared living areas, kitchen and bathroom areas, yard and any other common areas constitute the "residential property" as defined by the Act. I am satisfied that JK meets the definition of a "landlord" under the Act as she does not occupy the rental unit but is entitled to possession of the rental unit under her tenancy agreement with the owner and JK exercises rights and obligations of a landlord in her relationship with GS. Having heard that the tenant shares kitchen and bathroom facilities with persons that are not the owner of the property, I find that this living accommodation is not exempt from the *Residential Tenancy Act*. In light of these finding, I have determined that the Act applies to the tenancy relationship between JK and GS and I have the authority to resolve this dispute in accordance with the authority delegated to me.

I accept the terms of the mutual agreement reached between the parties during the hearing and make it an Order to be binding upon both parties. In recognition of the mutual agreement, I provide the landlord, JK, with an Order of Possession effective March 31, 2010 to serve upon the tenant.

As the parties were informed during the hearing, the Act requires the tenant to leave the rental unit and residential property reasonably clean and free of any damage caused by the tenant, except normal wear and tear.

Conclusion

This dispute was resolved by mutual agreement.  The tenancy shall end March 31, 2010 at which time the tenant must vacate the rental unit and residential property.  The landlord has been provided an Order of Possession effective March 31, 2010 to ensure the tenant vacates.

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: March 11, 2010.

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Dispute Resolution Officer