



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC

### 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 confirmed service of documents. Both parties were provided the opportunity to be heard, to ask questions and to respond to the submissions of the other party.

### Issues(s) to be Decided

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

### Background and Evidence

I heard undisputed evidence that the tenancy commenced December 15, 2007 and the tenant paid a \$400.00 security deposit. The tenant is required to pay rent of \$800.00 on the 1<sup>st</sup> day of every month. In May 2010 the landlord had the residential property inspected for rodents. On May 31, 2010 the landlord issued a 1 Month Notice to End Tenancy for Cause and posted it on the tenant's door. The tenant disputed the Notice within the time limit permitted under the Act. The Notice has an effective date of June 30, 2010.

Documentary evidence included the tenancy agreement, Notice to End Tenancy, an exterminator report and photographs.

During the hearing the parties raised issues including the landlord's attempt to increase rent, a mice infestation, condition of the property, allegations of improper entry by the landlord and abusive behaviour by both parties. The parties provided largely disputed verbal testimony concerning these issues; however, the parties were able to reach a mutual agreement to end the tenancy under the following terms:

1. The tenancy shall continue until 1:00 p.m. on August 31, 2010 at which time the tenant must vacate the rental unit;
2. The tenant will be provided exclusive possession of the rental unit and use of the common areas free from significant interference or unreasonable disturbance from the landlord until the tenancy ends;
3. The tenant will be permitted to deduct the \$400.00 security deposit from the rent owed for August 2010 and must pay the balance of rent owing of \$400.00 to the landlord by August 1, 2010;
4. The tenant will leave the rental unit reasonably clean and undamaged at the end of the tenancy;
5. The landlord will provide the tenant with the opportunity to participate in a move-out inspection with the landlord;
6. The landlord retains the right to make an Application for Dispute Resolution if the rental unit is damaged by the tenant or not left reasonably clean; and,
7. The landlord will be provided an Order of Possession effective at 1:00 p.m. on August 31, 2010.

### Analysis

I accept the mutual agreement reached between the parties and I make the terms an Order to be binding upon both parties. I authorize the tenant to deduct the \$400.00 security deposit from rent owed for August 2010 and upon receiving payment of the balance owed of \$400.00 the landlord must consider the rent paid in full. Since the

security deposit will be applied to rent, the tenant is not entitled to make any claim for return of the security deposit in the future.

I provide the landlord with an Order of Possession effective at 1:00 p.m. on August 31, 2010 to ensure the tenant vacates the rental unit. The Order of Possession must be served upon the tenant and may be enforced in The Supreme Court of British Columbia as an order of that court.

As mentioned to the parties during the hearing, the landlord must offer the tenant the first opportunity to participate in a move-out condition inspection with the landlord. The Residential Tenancy Regulations provides for scheduling an inspection:

#### **Scheduling of the inspection**

**16** (1) The landlord and tenant must attempt in good faith to mutually agree on a date and time for a condition inspection.

(2) A condition inspection must be scheduled and conducted between 8 a.m. and 9 p.m., unless the parties agree on a different time.

#### **Two opportunities for inspection**

**17** (1) A landlord must offer to a tenant a first opportunity to schedule the condition inspection by proposing one or more dates and times.

(2) If the tenant is not available at a time offered under subsection (1),

(a) the tenant may propose an alternative time to the landlord, who must consider this time prior to acting under paragraph (b), and

(b) the landlord must propose a second opportunity, different from the opportunity described in subsection (1), to the tenant by providing the tenant with a notice in the

approved form [[Notice of Final Opportunity to Schedule a Condition Inspection](#) (RTB-22)].

(3) When providing each other with an opportunity to schedule a condition inspection, the landlord and tenant must consider any reasonable time limitations of the other party that are known and that affect that party's availability to attend the inspection.

The landlord must prepare a condition inspection report and provide the tenant with a copy of the inspection report in accordance with the Act and regulations.

The landlord may obtain the [Condition Inspection Report](#) (RTB-27) and [Notice of Final Opportunity to Schedule a Condition Inspection](#) (RTB-22) from the Residential Tenancy Branch office or website.

### Conclusion

The tenancy ends by mutual agreement at 1:00 p.m. on August 31, 2010. The landlord is provided an Order of Possession to serve upon the tenant. The tenant may deduct the security deposit of \$400.00 from the rent owed for August 2010.

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: July 27, 2010.

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Dispute Resolution Officer