



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes:** OPR, OPQ, MND, MNR, CNQ, CNR, FF

### **Introduction**

This hearing dealt with applications by the tenant and the landlord pursuant to the *Residential Tenancy Act*.

This matter was originally heard on October 14, 2010. Both parties attended that hearing. In his decision, the Dispute Resolution Officer set aside the notice of hearing. The landlord applied for a review of this decision and was granted a review hearing that was scheduled to be heard on December 06, 2010. During the hearing on December 06, 2010, the tenant requested for an adjournment and the landlord agreed to have the hearing rescheduled. This matter was adjourned to be heard on this date.

At the start of the hearing on January 04, 2011, the landlord requested that her application be amended. She withdrew the portion of her application for a monetary order for damages. Therefore, this hearing only dealt with the landlord's application for an order of possession and for the recovery of the filing fee. The landlord's claim for a monetary order for damages is dismissed with leave to reapply.

The accommodation is subsidised housing and is allotted and rented based on a tenant's income and family size. The tenant currently resides in a two bedroom unit. The landlord alleges that the tenant lives alone and therefore does not qualify for a two bedroom unit. The tenant argues that she has her child for overnight visits.

The landlord was represented by the property and building managers. Both parties attended the hearing and had opportunity to be heard.

### **Issue to be Decided**

Does the landlord have grounds to end this tenancy based on the number of occupants in the subsidized rental unit?

## **Background and Evidence**

The tenant's ex spouse testified that he has sole custody of their child and that the child has never had an overnight visit with the tenant since February 2008.

During the hearing the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

## **Analysis**

Pursuant to Section 63 of the *Residential Tenancy Act*, the dispute resolution officer may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties reached an agreement to settle their dispute. Both parties agreed to the following terms:

1. The landlord agreed to allow the tenancy to continue up to January 31, 2011.
2. The tenant agreed to move out on or before 1 p.m. on January 31, 2011.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. I grant the landlord an order of possession under section 55 of the legislation. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As this dispute was resolved by mutual agreement and not based on the merits of the case, I decline the landlord's request to recover the filing fee paid for this application.



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## **Conclusion**

The notice to end tenancy is upheld and the tenancy will end on or before 1 p.m. on January 31, 2011.

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: January 04, 2011.

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Residential Tenancy Branch