



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      CNC

### Introduction

This conference call hearing was convened in response to the tenant's application for a cancellation of a 1 Month Notice to End Tenancy for Cause. Both parties attended the hearing and provided affirmed testimony. They presented oral evidence and confirmed receipt of the material they intended to submit at the hearing.

### Issue(s) to be Decided

Is the tenant entitled to a cancellation of the 1 Month Notice to End Tenancy?

### Background and Evidence

The rental unit consists of a one bedroom apartment in a multi-unit complex located in Vancouver. Pursuant to a written agreement, the month to month tenancy started on December 1<sup>st</sup>, 2003. At the hearing, new evidence revealed that the tenant also rents a separate unit in the building for commercial purposes.

The parties agreed to end the tenancy in the residential rental unit on January 28th, 2011.

The landlord's agent testified that she will allow the tenant to rent the commercial space until the later of April 1<sup>st</sup>, 2011, or when the tenant has sold the business. The landlord stated that this unit had been mistakenly rented to the tenant on a residential agreement.

### Analysis

Section 63 of the *Residential Tenancy Act* provides for the parties to resolve their dispute during the dispute resolution proceedings. Accordingly, the parties have agreed to the following:

- The tenant will move out of the residential unit by January 28<sup>th</sup>, 2011.

The parties did not submit any tenancy agreements with their written submissions. Nevertheless, regarding the tenant's commercial space in the building; it does not constitute a "rental unit" as defined by the Act. It is designed and intended for commercial use and not as living accommodations, whether or not the terms of the tenancy were written on a residential tenancy agreement. The Act does not apply and I must decline jurisdiction.

### Conclusion

Since the parties have resolved the dispute, the tenant's application is dismissed. The tenancy will end on January 28<sup>th</sup> as agreed. As requested by the landlord at the hearing, I grant the landlord an Order of Possession effective January 28<sup>th</sup>, 2011.

If necessary, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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 26, 2011.

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Residential Tenancy Branch