



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes CNL MNDC OLC LRE FF

### Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for landlord's use, as well as for monetary compensation, an order that the landlord comply with the Act and an order suspending or setting limits on the landlord's right to enter the rental unit.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the tenant's application in the conclusion of my decision.

I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

### Background and Evidence

The tenancy began on September 1, 2010. The tenancy agreement indicates that the tenancy was to be for a fixed term of twelve months, ending on August 31, 2011, and that at the end of the fixed term the tenancy would end and the tenants must move out. However, neither the original landlord nor the tenant initialled the boxes, as required, to indicate that they both agreed to that option.

In March 2011, the rental unit was sold, and the new owner took over as landlord. On August 17, 2011 the landlord emailed the tenant to inform him that she had decided not to renew the tenant's lease, but she was willing to extend the lease to October 31, 2011.

On September 28, 2011 the landlord emailed the tenant to seek confirmation that the tenant intended to move out of the rental unit on October 31, 2011, as the landlord intended to move into the rental unit on November 1, 2011.

On October 5, 2011 the landlord served the tenant with a notice to end tenancy for landlord's use. The notice indicates that the landlord intends to occupy the rental unit.

*Landlord's Evidence – Notice to End Tenancy for Landlord's Use*

The landlord stated that she purchased the rental unit with the intention of occupying it. The landlord believed that the tenancy would end on August 31, 2011, and the tenant would vacate. The landlord discussed several possibilities with the tenant, including entering into a new fixed-term tenancy. The landlord acknowledged that one of the possibilities the landlord discussed was increasing the rent by 10 percent under the new fixed term. However, the landlord always intended to eventually move into the rental unit, and for that reason she rented an apartment and registered her child to attend school in the same neighbourhood as the rental unit. Once the landlord became aware that the tenancy agreement reverted to a month-to-month tenancy, she issued the notice to end tenancy for landlord's use.

During the hearing the landlord orally requested an order of possession.

*Tenant's Response – Notice to End Tenancy for Landlord's Use*

From April to August 2011, the landlord and tenant had several discussions about the tenant signing a new lease. The tenant confirmed to the landlord several times that he intended to sign a new lease. Then, in late August 2011, the landlord informed the tenant that she would like to raise the rent by 10 percent. The tenant did not agree to the increase, and refused to sign a new lease. The tenant believes that the landlord is trying to end the tenancy because the tenant refused to agree to the rent increase. The tenant does not believe that the landlord intends to move into the rental unit, because she signed a 12-month lease for her current rental unit.

Analysis

I find that the notice to end tenancy is valid. I accept the landlord's evidence as consistent and credible. The landlord acknowledged that she did discuss the possibility of a rent increase under a new tenancy agreement, but she did not pursue an increase in rent or give the tenant any notice to increase the rent after she believed the tenancy

would end. I am satisfied that the landlord does intend in good faith to occupy the rental unit.

I find that the notice to end tenancy is valid. The landlord requested an order of possession, and accordingly I grant the landlord an order of possession.

As the tenant was not successful in his application, he is not entitled to recovery of the filing fee for the cost of his application.

### Conclusion

The portion of the tenant's application regarding cancellation of the notice to end tenancy is dismissed.

The remainder of the tenant's application is dismissed with leave to reapply.

I grant the landlord an order of possession effective December 31, 2011. 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.

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: November 10, 2011.

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Residential Tenancy Branch