



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNL, FF

### Introduction / Background / Evidence

A hearing was originally scheduled for January 3, 2012 in response to the tenant's application for cancellation of the landlord's 2 month notice to end tenancy for landlord's use of property / and recovery of the filing fee. Both parties attended the hearing, and both parties requested an adjournment in order to pursue efforts to resolve the dispute directly between them. The request of the parties was granted, and the present hearing was scheduled. Some of the particulars related to the tenancy and the landlord's issuance of a 2 month notice to end tenancy are set out in the Interim Decision issued by date of January 3, 2012.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, during the hearing the parties formalized the resolution achieved between them subsequent to the previous hearing. Specifically, it was agreed as follows:

- that the tenant will vacate the unit by not later than March 31, 2012, and that an order of possession will be issued in favour of the landlord to that effect;
- that pursuant to section 51 of the Act which speaks to **Tenant's compensation: section 49 notice**, the landlord will waive payment of rent for the month of March 2012;
- that the parties will share equally between them the tenant's \$50.00 filing fee, by way of the landlord's addition of \$25.00 to the security deposit at such time as it is repaid by the landlord to the tenant;
- that despite the above particulars, the landlord recognizes and accepts that the tenant may give notice to end tenancy before March 31, 2012 pursuant to section 50 of the Act, which provides that a **Tenant may end tenancy early following notice under certain sections**; this section of the Act states:

50(1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [*landlord's use of property*] or 49.1 [*landlord's notice: tenant ceases to qualify*], the tenant may end the tenancy early by

(a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and

(b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 51 [*tenant's compensation: section 49 notice*].

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Saturday, March 31, 2012**. This order must be served on the tenant.

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: February 07, 2012.

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Residential Tenancy Branch