



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC, FF

### Introduction

This hearing concerns the tenant's application for cancellation of a notice to end tenancy / and recovery of the filing fee. Both parties participated and / or were represented in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the fixed term of tenancy is from September 1, 2011 to August 31, 2012. Monthly rent of \$1,100.00 and utilities in the amount of \$50.00 are both due and payable in advance on the first day of each month. A security deposit of \$550.00 was collected. The landlord testified that a move-in condition inspection report was done at the start of tenancy.

The landlord issued a 1 month notice to end tenancy for cause dated May 28, 2012. The tenant filed an application to dispute the notice on June 7, 2012. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is June 30, 2012. The reason shown on the notice for its issuance is as follows:

Rental unit / site must be vacated to comply with a government order

The "order" referred to is set out of a letter received by the landlord from the local government authority which is dated May 23, 2012. The letter states, in part, as follows:

In order for you, as the property owner, to bring this property in compliance with the District bylaws and regulations, you are required to discontinue use of the

secondary suite by giving notice to your tenant to vacate the suite and removal of the “cooking facility”, by July 02, 2012.

During the hearing the parties undertook to resolve the dispute.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 63 of the Act speaks to the **Opportunity to settle dispute**. Pursuant to this provision discussion between the parties led to a resolution, and it was specifically agreed as follows:

### **RECORD OF SETTLEMENT**

- that the tenant will vacate the unit by no later than Tuesday, July 31, 2012, and that an order of possession will be issued in favour of the landlord to that effect;
- that the landlord waives payment of rent (\$1,100.00) and utilities (\$50.00) for the month of July 2012;
- that the landlord will pay the tenant \$850.00 by way of cheque at the end of tenancy, and by no later than Tuesday, July 31, 2012, and that a monetary order will be issued in favour of the tenant to that effect;
- that the tenant withdraws his application to recover the \$50.00 filing fee;
- that at the end of tenancy the parties will resolve between them the disposition of the security deposit;
- that the above particulars comprise full and final settlement for both parties of all issues in dispute which are presently before me.

Finally, in anticipation of the end of tenancy the attention of the parties is drawn to the following sections of the Act;

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Section 37: **Leaving the rental unit at the end of a tenancy**

Section 38: **Return of security deposit and pet damage deposit**

Section 39: **Landlord may retain deposits if forwarding address not provided**

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Tuesday, July 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$850.00**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court 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: June 26, 2012.

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Residential Tenancy Branch