



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNL, MNDC, FF

### Introduction

This hearing concerns the tenant's application for cancellation of a notice to end tenancy / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

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

### Background and Evidence

Two previous hearings have been convened in disputes between these same parties, with decisions issued, respectively, by date of September 20 and November 7, 2011 (files # 779701 & # 780857). In summary, this tenancy began on May 15, 1992 at which time a security deposit of \$337.50 was collected. Monthly rent is presently \$850.00.

Pursuant to section 49 of the Act which addresses **Landlord's notice: landlord's use of property**, the landlord issued a 2 month notice dated May 23, 2012. The notice was served by way of registered mail. The tenant filed an application to dispute the notice on May 29, 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 July 31, 2012, and the reason shown on the notice for its issuance is as follows:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

Landlord "JH" is the son of male landlord "BH" and female landlord "BH." Landlord "JH" testified that he is a part owner of the unit and that it is his intention to move into the unit very shortly after it becomes vacant. However, in light of the disputatious history

between the parties, the tenant's legal counsel questioned the good faith intent of the landlord in this regard.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook today to achieve a final resolution.

### 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 led to a settlement and it was specifically agreed as follows:

### **RECORD OF SETTLEMENT**

- that the tenant will vacate the unit by not later than 1:00 p.m., Friday, August 31, 2012, and that an order of possession will be issued in favour of the landlords to that effect;
- that pursuant to section 51 of the Act which addresses **Tenant's compensation: section 49 notice**, the tenant will make no payment of rent for the month of August 2012;
- that, further to the above, the tenant will make no payment of rent for the month of July 2012;
- that by no later than the last day of tenancy, the landlords will issue cheque payment to the tenant in the amount of \$275.00, and that a monetary order will be issued in favour of the tenant to that effect;
- that the above cheque reflects \$250.00 towards the tenant's moving expenses, and \$25.00 which is half the tenant's filing fee;
- that between them the parties will resolve the disposition of the security deposit at the end of tenancy.

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **1:00 p.m., Friday, August 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 **\$275.00**. Should it be necessary, this order may be served on the landlords, 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 18, 2012.

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Residential Tenancy Branch