



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

<u>Dispute Codes</u>	Landlord:	OPR, MNR and FF
	Tenant:	CNC

This hearing was convened on applications by both the landlords and the tenant.

By application of July 9, 2012, the landlord sought an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent, a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding from the tenant.

By prior application of July 3, 2012, the tenant sought to have set aside a one-month Notice to End Tenancy for cause dated June 28, 2012.

As a preliminary matter, the parties had each named a different co-tenant/occupant, and evidence given at the hearing indicated there were additional occupants as well. Therefore, as the landlord had not been aware of the change in co-tenants/occupants, the primary tenant who has been the constant from the beginning of the tenancy and the landlord concurred that he should be the sole respondent/applicant.

This matter was further confused by the fact that there had been by handshake in April 2012 an agreement that the tenancy would end on July 28, 2012 to facilitate a sale of the property. As there was no formal Notice to End Tenancy for landlord use, that agreement is unenforceable.

In addition, the Notice to End Tenancy for cause of June 28, 2012 is unenforceable as it stated no specific cause to end the tenancy.

The landlord stated that she had not been aware of the requirement for notice for landlord use to be in writing, and the tenant stated that he had not been aware of the tenant's right to the equivalent of one month's rent when receiving such notice when he made the agreement. Therefore, he did not pay the rent for July 2012 when he learned of the provision. However, in the absence of properly served notice, the free-month equivalent cannot be applied.

The landlord stated that the rental building has been sold with a possession date of August 10, 2012 and the tenant stated that he and other occupants have made arrangement to vacate by July 28, 2012..

On learning of the applicable legislation, the parties arrived at the following agreement:

### **Consent Agreement**

The tenant agrees that he and all other occupants will vacate the rental unit by July 28, 2012 and that the landlord have an Order of Possession effective on that date.

The landlord agrees that, in view of the failure of both parties to know and apply the applicable sections of the Act to ending the tenancy, she will accept one-half of the July 2012 rent, \$800, as payment in full.

As the dispute has been settled by consent agreement, I make no award with respect to filing fees

### **Conclusion**

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia to take effect at 1 p.m. on July 28, 2012.

The landlord's copy of this decision is also accompanied by a Monetary Order for \$800, enforceable through the Provincial Court of British Columbia, for service on the tenant..

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: July 23, 2012.

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Residential Tenancy Branch