



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNR, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Ten-Day Notice to End Tenancy for Unpaid Rent dated August 7, 2012 with effective of August 17, 2012.

Both parties appeared and gave testimony during the conference call.

### **Issue(s) to be Decided**

Should the Ten-Day Notice to End Tenancy for Unpaid Rent be cancelled?

### **Preliminary Matter:**

The Ten Day Notice to End Tenancy for Unpaid Rent dated August 7, 2012 claimed rental arrears of \$595.00 owed for June 2012 and \$427.40 utilities owed to the landlord.

However, a previous hearing had already held on the tenant's application on April 30, 2012 seeking to cancel a Two Month Notice to End Tenancy for Landlord's Use and the decision of the dispute resolution officer was that the tenant did not owe any rent for the month of June 2012 as the tenant was entitled under the Act to the equivalent of one month free rent.

In addition to the above, on July 24, 2012, a subsequent hearing was held, this time on the landlord's application, in which the landlord was seeking monetary compensation and an order of possession. It was found in this decision that, because the landlord had received rent for the month of June 2012 and also accepted rent payment for July 2012, the tenancy was reinstated.

*Section 77 of the Act* states that, except as otherwise provided in the *Act*, a decision or an order is final and binding on the parties. Therefore any findings made by the Dispute Resolution Officer that presided over the prior hearings are not matters that a subsequent Dispute Resolution Officer would have any statutory authority to alter. Therefore, any decision that I render must honour the above existing findings.

Given the above, I find that the rent purported to be owed and in arrears, as reported on the landlord's Ten Day Notice to End Tenancy for Unpaid Rent dated August 7, 2012 , pertains to rent for the month of June 2012, and this matter has already been dealt with at previous hearings and a prior determination has been made.

As I already stated, a Dispute Resolution Officer has no authority to reconsider any previous findings or a decision rendered by another Dispute Resolution Officer . The only avenue to pursue a challenge of a previous dispute resolution hearing would be through judicial review via the Supreme Court of British Columbia.

As I have no authority to make any determination with respect to a claim for rent owed for June 2012, I proceeded to consider the portion of the August 7, 2012 Ten Day Notice to End Tenancy that related to utility arrears allegedly owed to the landlord.

I find that the matter of the utility arrears was also dealt with by the officer presiding over the hearing held on July 24, 2012 and the landlord's claim for compensation for hydro costs was dismissed at that time. The previous dispute resolution officer found, it was evident that, under the tenancy agreement, the tenant does not pay the landlord for hydro services, but purchases hydro directly from the utility company through an account in her own name.

### **Conclusion**

Given the above, I find that the Ten Day Notice to End Tenancy for Unpaid Rent dated August 7, 2012 has no merit and cannot be enforced because the issues that are the subject of the Ten Day Notice were matters that were already dispensed with in 2 previous dispute resolution hearings and cannot be revisited.

The parties stated that the landlord has since issued yet another Notice to End Tenancy and the tenant stated that she will comply. Accordingly both parties consented to an Order of Possession being issued to the landlord effective October 31, 2012. Therefore, I hereby grant an Order of Possession to the landlord on consent effective October 31, 2012 for the tenant to vacate the unit by 4:30 p.m.

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: September 10, 2012.

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Residential Tenancy Branch