



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNL, FF

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy / and recovery of the filing fee. Both parties attended 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, the tenancy began on August 1, 2010. Monthly rent of \$1,050.00 is due and payable in advance on the first day of each month, and a security deposit of \$525.00 was collected.

Pursuant to section 49 of the Act which speaks to **Landlord's notice: landlord's use of property**, the landlord issued a 2 month notice to end tenancy dated July 1, 2013. A copy of the notice was submitted in evidence. The reason identified on the notice in support of 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.

The tenant filed an application to dispute the notice on July 4, 2013.

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**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion 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 **Monday, September 30, 2013**, and that an **order of possession** will be issued in favour of the landlords to that effect;
- that rent will be **waived** for the month of **September 2013**;
- that the landlords will reimburse the tenant for rent of **\$1,050.00** which has already been paid for August;
- that the landlords will reimburse the tenant for one half the \$50.00 filing fee in the amount of **\$25.00**;
- that the landlords' reimbursement of rent for August and half the filing fee, will be by **cheque** in the total amount of **\$1,075.00** (\$1,050.00 + \$25.00), which is dated not later than **August 26, 2013**, and that a **monetary order** will be issued in favour of the tenant to that effect;
- that the above cheque will be delivered to the tenant by way of **sliding beneath the unit door**; and
- that the tenant will acknowledge receipt of the landlords' cheque by way of **typing a receipt and posting it on the landlords' door**.

As the end of tenancy nears, the attention of the parties is drawn to section 37 of the Act which speaks to **Leaving the rental unit at the end of a tenancy**:

37(1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

Further, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit.**

### Conclusion

I hereby issue an **order of possession** in favour of the landlords effective no later than **Monday, September 30, 2013**. 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 **\$1,075.00**. 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: August 12, 2013

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Residential Tenancy Branch

