



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MT CNC OPC FF

This hearing dealt with applications by the tenant and the landlord.

The tenant sought to apply to cancel a notice to end tenancy, but as the tenant did not make the application within the prescribed time frame, she also applied for an extension of time. The landlord applied for an order of possession and recovery of the filing fee for the cost of their application.

The landlord posted a one month notice to end tenancy on the tenant's door on July 27, 2008. The tenant acknowledged receiving the notice on July 28, 2008. The tenant did not file an application to dispute the notice until August 13, 2008 because she had been assaulted by her ex-boyfriend on July 26, 2008 and for a period of approximately 10 days in August the tenant was in the hospital recovering from the emotional effects of the assault. The tenant was unable to provide the exact dates of her hospitalization. The landlord submitted that the tenant called the resident manager on July 28, 2008 in regard to the notice to end tenancy, and the landlord believes that the tenant was capable of filing for dispute resolution within the prescribed time frame.

Under section 66 of the Residential Tenancy Act, an extension of time can only be granted where the applicant has established that there are exceptional circumstances. I find that the tenant has failed to prove that exceptional circumstances prevented her from filing for review and I therefore dismiss the tenant's application.

I find that the tenant was served with a notice to end tenancy for cause, and as the tenant did not apply within the required time frame to dispute the notice she is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of

possession, effective September 30, 2008. The tenant must be served with the order of possession. 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.

The landlord is also entitled to recovery of the filing fee for the cost of their application.

Dated September 11, 2008.