



# Dispute Resolution Services

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

## **DECISION AND REASONS**

Dispute Codes: MT & CNC

### Introduction:

This hearing dealt with an application by the tenants to dispute a one month Notice to End Tenancy served on January 8, 2009 for repeated late payment of rent. The tenants also seek further time to dispute the notice after the allowable timeframe provided by section 47. Both parties appeared for the hearing and were provided the opportunity to be heard and respond to the evidence of the other party.

### Issues to be Determined:

Are the tenants entitled to further time to file their application to dispute the one month Notice to End Tenancy?

Should the one month Notice to End Tenancy be set aside?

### Background and Evidence:

This tenancy began on August 1, 2008 for the monthly rent of \$750.00. The tenants were served with two Notices to End Tenancy in January 2009. One was a 10 day notice due to non-payment of rent and the other was the one month notice under dispute in this application.

The tenants did not file an application to dispute the notice until February 6, 2009. This was well beyond the 10 days provided under section 47(4) of the *Act*. A timeframe established under the can only be changed under exceptional circumstances. Example of an exceptional circumstance would be the party was hospitalized. Not understanding the requirements of the *Act* are not exceptional circumstances. Likewise, although the tenants also claimed that they did not have the funds to pay for the application fee this does not explain the length of time they waited to file the application or address why the tenants did not request a fee waiver under the *Act*.

### Analysis:

I find that the tenant's have failed to establish that there were exceptional circumstances preventing them from filing to dispute the one month Notice to End Tenancy within the 10 day timeframe established under section 47(4) of the *Act*. As a result, I find that the tenants conclusively accepted the end of the tenancy pursuant to section 47(5) of the *Act* and I dismiss their request to set aside the notice.

The landlord is entitled to an Order of Possession. The landlord agreed to allow the tenancy to continue until March 31, 2009. I have issued the landlord an Order of Possession effective **march 31, 2009** at **1:00 p.m.** This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion:

The tenants' application is dismissed.

Dated February 20, 2009.

---

Dispute Resolution Officer