



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

### Dispute Codes:

MT, CNC

### Introduction

Both parties were present at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral evidence, to cross-examine the other party, and to make submissions during the hearing.

### Preliminary Matter(s)

At the commencement of the hearing it was established that the tenant had applied for dispute resolution requesting additional time to apply to cancel a Notice to End Tenancy for Cause. The application was amended to include a request to cancel a Notice to End Tenancy which I find was the tenant's intent upon making the application; therefore the Application was amended to include a request to cancel the Notice to End Tenancy.

It was established that the tenant did not receive the entire evidence package submitted by the landlord to the Residential tenancy Branch. The tenant did not receive the photographs, an August 13, 2008 letter or a physician's note.

At the commencement of the hearing I established that there is only one Notice to End Tenancy which has been issued by the landlord and that this Notice was issued on May 6, 2009.

### Issue(s) to be Decided

The issue to be decided is whether the whether the tenant should be given more time to make application to cancel a Notice to End Tenancy and whether the Notice to End Tenancy should be set aside.

### Background and Evidence

The landlord testified that a Notice to End Tenancy for Cause was issued and served to the tenant on April 29, 2009. The only Notice to End Tenancy submitted as evidence was a Notice issued on May 6, 2009 with an effective vacancy date of May 31, 2009. The landlord was unable to provide testimony that explained how this Notice could have been served on April 29 and then stated that it was likely the Notice was served on May 6, 2009. The tenant testified that he received the notice on May 6, 2009.

The tenant applied for dispute resolution on May 14, 2009; within the ten day time frame required by the Act; therefore the tenant's Application to cancel the Notice may proceed.

The Notice to End Tenancy details indicate that there is an attachment explaining reasons for the Notice. The Notice includes selections under the One-Month Notice section of the form and reasons under the Two-Month Notice section of the form. The tenant has indicated that he does not know if he has been given one months' or two months' notice.

### Analysis

The Notice to End Tenancy issued on May 6, 2009 is on a Ministry of Public Safety and Solicitor General form dated June, 2004. This form differs from those currently in use. The forms for one and two month notices were changed effective July 2007 and March 2008 respectively.

The Notice to End Tenancy submitted as evidence is confusing as the landlord has indicated that the tenant has been given both a one month notice and two month notice to end the tenancy. The Notice was issued on May 6, 2009 with an effective vacancy date of May 31, 2009; which is less than a one month period. The One Month Notice indicates that there are an unreasonable number of people in the rental unit, that the tenant has engaged in illegal activities and that the tenant does not repair damage. The Two Month Notice indicates that the landlord is renovating the rental unit, requiring the unit to be vacant.

When a landlord wishes to end a tenancy the Notice must be in the acceptable form. I find that the Notice provided to the tenant is confusing in that it gives the tenant both one month's notice and two month's notice to end the tenancy. The 2004 form differs from those currently in use in that the explanations to each party are more difficult to decipher and it does not clearly express compensation that is due to a tenant under a two month Notice issued for renovation. The forms in use today provide tenants with more easily understandable reasons, do not combine one and two month notice reasons and do not provide for attachments made to the Notice.

The landlord testified that a Notice was served to the tenant on April 29, 2009. The evidence submitted by the landlord included a letter dated April 28 which states that the tenant should "kindly consider this letter as your second eviction notice." A document issued to a tenant that is not in the required form and fails to include the necessary

content required for a Notice to End Tenancy, as determined by the Act is of no force or effect.

I find that the Landlord has failed to provide a Notice to End Tenancy in the required form. The Notice to End Tenancy issued on May 6, 2009 is of no force or effect and is cancelled. This tenancy may continue and the tenant is not required to vacate his rental unit.

### Conclusion

I have determined that the Notice to End Tenancy issued on May 6, 2009 is of no force or effect and I find that this Notice is cancelled and that the tenancy will continue.

I have included a copy of A Guide for Landlords and Tenants in British Columbia for each party.

Dated June 23, 2009.

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Dispute Resolution Officer