

# Dispute Resolution Services

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

## **DECISION AND REASONS**

### **Dispute Codes:**

*OPC, CNC*

### **Introduction.**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession pursuant to Section 55 and the tenant applied to cancel the notice to end tenancy, pursuant to Section 47.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Does the landlord have cause to end the tenancy or should the notice to end tenancy be set aside and the tenancy be allowed to continue?

### **Background and Evidence**

The tenancy started on June 01, 2002 on a month to month basis. Rent is currently \$553.00 due on the first day of each month.

On March 01, 2009, the landlord served the tenant with a one month notice to end tenancy for cause with an effective date of April 30, 2009. The notice to end tenancy alleges that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

On March 09, 2009 the tenant requested the landlord to extend the effective date of the notice to end tenancy to June 30, 2009, so that his son could complete his school year and graduate with his class. The landlord agreed to do so and amended the notice to end tenancy. The tenant gave the landlord a note which confirmed his intentions to move out of the suite on June 30, 2009. This note is signed by both tenants.

The amended notice to end tenancy was dated March 12, 2009 with an effective date of June 30, 2009. On June 26, 2009, the tenant filed an application to dispute the notice to end tenancy. The tenant continues to occupy the rental unit as of this date and has not paid rent for the current month of August.

The tenant testified that he has purchased a home and intends to move out at the end of August. The landlord requested an order of possession effective two days after service on the tenant.

### **Analysis**

Pursuant to section 47(4) of the *Residential Tenancy Act*, a tenant may dispute a notice under this section by making an application for dispute resolution within ten days after the date the tenant receives the notice. Section 47(5) states that if a tenant does not make an application for dispute resolution within ten days after receiving the notice to end tenancy, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

In this case, the tenant received the amended notice on March 12, 2009 and did not dispute the notice to end tenancy within ten days of receiving it. In addition the tenant agreed in writing to move out on the effective date of the notice.

Accordingly, the notice to end tenancy is upheld and pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court for enforcement

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant. The tenant's application is dismissed.

Dated August 05, 2009.

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Dispute Resolution Officer