



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MT, CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to allow her more time to file her application to cancel the One Month Notice to End Tenancy and to cancel the One Month Notice to End Tenancy for cause.

The tenant served the landlord with a copy of the Application and Notice of Hearing. The landlord confirmed receipt of this package. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

The landlords' agent and the tenant appeared. Both parties gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Is the tenant entitled to more time to file an application to cancel the One Month Notice to End Tenancy?
- If more time is granted, is the tenant entitled to cancel the Notice to End Tenancy?



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Page: 2

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## Background and Evidence

Both Parties agree that this tenancy started in March, 2010, the landlords agent states the tenancy started on March 01, 2010 and the tenant states it started on March 15, 2010. The rent for this unit is \$800.00 per month and is due on the first of the month. The tenant paid a security deposit of \$400.00.

The landlords' agent states the tenant was served with a One Month Notice to End Tenancy on June 21, 2010 and this Notice was posted to her door. The information on this Notice states that the tenant had 10 days from the date the Notice was deemed to have been served (June 24, 2010) to file her application to dispute the Notice. The tenant filed her application on July 21, 2010, 27 days after being deemed to have received the Notice.

The tenant states she was confused with the 10 Day Notices, the warning letters and the One Month Notice and tried to talk to the landlords agent and that is why she filed her application late.

The landlord seeks an Order of Possession to take affect at the end of August, 2010

## Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. Section 66 of the Residential Tenancy Act states: the director may extend a time limit established in the Act only in exceptional circumstances (my interpretation). The tenant had 10 Days from June 24, 2010 to file her application and did not file until July 21, 2010. Therefore, it is my decision that the tenant has been unable to demonstrate any exceptional circumstances as to why her application was filed

on the 27th day after receiving the Notice to End Tenancy. The tenant argues that she tried to talk to the landlords' agent about the Notices and was confused about what she was required to do. However, the tenants' explanation does not warrant exceptional circumstances as defined under section 66 of the *Act*. Consequently, It is my decision that the tenant did not cancel the One Month Notice within the allowable time frame and is therefore conclusively presumed, under section 47(5)(a) of the *Act*, to have accepted that the tenancy will end on the effective date of the Notice and the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

## Conclusion

The tenant's application is dismissed in its entirety without leave to reapply. The One Month Notice to End Tenancy for Cause will remain in force and effect.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on August 31, 2010. This order must be served on the tenant and may be filed in the Supreme 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 23, 2010.

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Dispute Resolution Officer