



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

CNC, MT

### Introduction

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants.

The tenant provided affirmed testimony that the Notice of hearing documents were served to the landlord's reception, at their office, on December 20, 2010. The landlord stated she did not receive the Notice of Hearing until January 6, 2011. The documents were not date-stamped by the landlord's reception and the landlord indicated that they believed the documents were not served in the manner given by the tenant.

I determined, as provided by section 71(2) of the Act; that on January 6, 2011, the landlord had been sufficiently served with Notice of this hearing.

### Issue(s) to be Decided

Is the tenant entitled to more time to submit an Application to cancel a 1 Month Notice issued for cause on November 25, 2010?

Should the 1 Month Notice issued for Cause be cancelled?

### Background and Evidence

The tenancy commenced January 12, 1994; subsidized rent is \$461.00 per month, due on the first day of each month.

The tenant confirmed that on December 4, 2010, she received a copy of the Notice ending tenancy. The building manager provided affirmed testimony that she had posted to the Notice to the tenant's door on December 1, 2010.

The tenant stated that she did not read the Notice and did not understand that she should make an application to cancel the Notice within 10 days of December 4, 2010. The tenant submitted her application disputing the Notice, on December 20, 2010.

The tenant provided no other reasons for her late application, other than she was distracted, busy and had not read the Notice fully. The tenant confirmed that the building manager had told her to carefully read the Notice.

The landlord testified that this was not the first Notice ending tenancy for the same cause that the tenant had received, indicating that the tenant had seen the same form of Notice in the past.

## Analysis

Section 66(1) of the Act provides:

**66** (1) *The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) [starting proceedings] or 81 (4) [decision on application for review].*

The tenant received the Notice on December 4, 2010, but failed to fully read the Notice. The reasons for the delayed Application provided by the tenant did not support the requirement of the Act that the delay in submitting the application was due to any exceptional circumstances. An exceptional circumstance would be something that was unusual or extraordinary and I find the tenant failed to demonstrate that either of these tests was met.

The Notice ending tenancy provided the tenant with instructions that she had a right to dispute the Notice within 10 days after receiving it, by filing an Application. The Notice also instructed the tenant to provide evidence of a serious or compelling reason for not filing the Application on time; the tenant has failed to provide any evidence of a serious or compelling reason for her late Application.

Therefore, as the tenant applied to cancel the Notice sixteen days after receipt of the Notice, I found that the tenant's application requesting more time to cancel the Notice ending tenancy was dismissed.

I have made no finding in relation to the force of the Notice, other than to point out during the hearing that a one month Notice ending tenancy served after the rent due date in the month would be effective on the last day of the following month; in this case, January 31, 2011.



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I find that the tenant's Application to cancel the Notice ending tenancy for cause issued on November 25, 2010, is dismissed.

## Conclusion

The tenant's Application requesting more time to cancel a Notice ending tenancy is dismissed.

The tenant's Application to cancel the Notice ending tenancy for cause issued on November 25, 2010, is dismissed.

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: January 13, 2011.

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Residential Tenancy Branch