



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OPC, FF

### Introduction

First of all is my decision that I have removed the respondent's whose initials are M.H. & D.R. as respondents in the landlords application for dispute resolution, because they are renting separate rooms under separate tenancy agreements and therefore if the landlord wishes to proceed with dispute resolution against them, she must file separate applications for each of these 2 tenants.

Therefore today's hearing is between the landlord and her tenant whose initials are R.F.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlord. Both files were heard together.

The tenant's application is a request to cancel a Notice to End Tenancy that has been given for cause.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy that has been given for cause, and a request for recovery of the \$50.00 filing fee.

### Background

The tenant was personally served with a section 47 one month Notice to End Tenancy for cause on July 30, 2011.

The tenant filed for dispute resolution to dispute the Notice to End Tenancy on August 10, 2011, 11 days after receiving the notice.

The tenant has not applied for an extension of time to dispute the notice.

### Decision and reasons

Sections 47(4) & 47(5) of the Residential Tenancy Act state:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution **within 10 days** after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is **conclusively** presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Therefore since the tenant did not make an application to dispute the 10 day Notice to End Tenancy within the 10 day time period, the tenant is conclusively presumed to have accepted that this tenancy ends and must vacate the rental unit

Therefore I will not set the notice aside and I allow the landlords request for an order possession and recovery of the filing fee.

### Conclusion

#### Tenant's application

The tenant's application is dismissed without leave to reapply.

#### Landlord's application

I have issued an Order of Possession for 1 p.m. on September 30, 2011 and have issued an order for the tenant to pay \$50.00 to the landlord, being the cost of the filing fee.

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: September 13, 2011.

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Residential Tenancy Branch