



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC OPB FF MT CNC LRE

### Introduction

This hearing dealt with applications by the landlord and the tenants. The landlord applied for an order of possession. The tenants applied to cancel a notice to end tenancy for cause and an extension of time to apply to cancel the notice. The tenants also applied for an order suspending or setting conditions on the landlord's right to enter the rental unit. An agent for the landlord and both tenants participated in the teleconference hearing.

### Issue(s) to be Decided

Are the tenants entitled to an extension of time?

Is the landlord entitled to an order of possession?

Should there be additional conditions set on the landlord's right to enter the rental unit?

### Background and Evidence

The tenancy began on March 9, 2011.

On August 26, 2011 the landlord posted to the tenants' door a one-month notice to end tenancy for cause. The tenants were not sure which day they received the notice.

On September 14, 2011, the tenants filed an application to cancel the notice to end tenancy. The tenants stated that they did not apply to cancel the notice within the required time frame because the male tenant was in the hospital with bad asthma from before August 26 to possibly August 28, 2011. The female tenant did not stay at the rental unit while the male tenant was in the hospital.

The effective date of the notice to end tenancy is September 30, 2011. However, in the hearing, the landlord stated that they would be willing to extend the effective date of an order of possession to October 31, 2011.

In regard to setting conditions on the landlord's right to enter the rental unit, the tenants stated that the landlord was not giving the tenants proper notice before showing the rental unit to prospective new tenants. The tenants stated that they wanted written 24 hour notice each time the landlord intended to enter the rental unit.

### Analysis

The tenants are not entitled to an extension of time to apply to cancel the notice to end tenancy. The notice was posted on August 26, 2011 and would have been deemed served on August 29, 2011. The tenants therefore needed to apply to cancel the notice by September 8, 2011. An extension of time is only granted in extraordinary circumstances, and the tenants did not provide sufficient evidence to establish that extraordinary circumstances prevented them from cancelling the notice. According to the male tenant's testimony, he was likely only in the hospital for a short time, and returned home on or about August 28, 2011. Therefore, either tenant would have been able to apply to cancel the notice between August 29 and September 8, 2011 but they failed to do so. The portions of the tenants' application for an extension of time and to cancel the notice are dismissed. The landlord is entitled to an order of possession.

In regard to setting additional conditions on the landlord's right to enter the rental unit, I find that it is not necessary to set further conditions than those set out in section 29 of the Act. If the tenants do not give permission for the landlord to enter, the landlord must give the tenants written notice at least 24 hours before they intend to enter the rental unit. The landlord must comply with these requirements set out under the Act.

### Conclusion

The tenants' application is dismissed.

I grant the landlord an order of possession effective October 31, 2011. The tenants must be served with the order of possession. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As the landlord's application was successful, they are entitled to recovery of their filing fee of \$50.

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: October 13, 2011.

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Residential Tenancy Branch