



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNC

### Introduction

This hearing dealt with an application by the tenant to allow a tenant more time to make an application and cancel a notice to end tenancy for cause. Both parties attended the hearing.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

This tenancy began in 2004 and in 2007, the housing complex was purchased by BC Housing and the landlord hired to manage the property. The property houses 84 rental units and is designed to support individuals with severe mental health and addictions issues. The tenant was a resident of the building prior to the landlord taking over management of the property and is not receiving any supports or services from the service providers in the building.

On or around November 17, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause, a copy of this notice has not been provided into evidence.

The tenant in this application has requested more time to file an application to dispute a notice to end tenancy as he did not discover the notice to end tenancy until he was picking up his recycling from the floor by his door on November 29, 2011. Once the tenant discovered the notice the tenant immediately came to the Residential Tenancy Branch office and filed an application to dispute the notice.

The landlord testified that the notice had initially been taped to the tenant's door but that the notice either kept falling off or was being removed and thrown on the floor by parties unknown. This continued to happen so on the third day after the notice was originally posted, the landlord slid the notice to end tenancy under the tenant's door.

As the tenant has not properly been served with the landlord's 1 Month Notice to End Tenancy for Cause the notice will be set aside.

### Analysis

Based on the documentary evidence and testimony of the parties I find that the landlord has not properly served the notice to end tenancy for cause as outlined in section 89 of the Act as the landlord slid the notice to end tenancy under the tenant's door.

As the notice is set aside the tenant does not require more time to file an application as there is no notice in effect to dispute.

As the service provisions have not been met the notice to end tenancy for cause is hereby set aside and the tenancy continues in full force and effect.

Residential Tenancy Act section **89 Special rules for certain documents** speaks to:

(2) An application by a landlord under section 55 *[order of possession for the landlord]*, 56 *[application for order ending tenancy early]* or 56.1 *[order of possession: tenancy frustrated]* must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

As the tenant has been successful in their application the tenant is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Cause with the result that the tenancy continues uninterrupted.

The tenant is entitled to recovery of the \$50.00 filing fee and I grant the tenant a monetary order under section 67 of the *Act* for this amount.

If the amount is not paid by the landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: December 14, 2011.

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Residential Tenancy Branch