



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MT; CNC

### **Introduction**

This Hearing was scheduled to hear the Tenants' application to be allowed more time to file an Application to cancel a *One Month Notice to End Tenancy for Cause* (the "Notice") issued November 12, 2011; and to cancel the Notice.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that she served the Landlord with the Notice of Hearing documents by registered mail, sent to the address for the Landlord given on the Notice to End Tenancy. She stated that she mailed the documents on December 10, 2011. The Tenant provided the tracking numbers.

Based on the Tenant's affirmed testimony, I am satisfied that the Landlord was served with the Notice of Hearing documents, by registered mail to the service address given by the Landlord on the Notice to End Tenancy. Section 90 of the Act deems service in this manner to be effected 5 days after mailing the documents. Despite being deemed served, the Landlord did not sign into the Hearing and we proceeded in his absence.

### **Preliminary Matter: The Tenant's application to be allowed more time to file her Application**

The Tenant testified that the Landlord posted the Notice to her door on November 12, 2011. She stated that she did not file her application until December 8, 2011, because she has a medical condition and could not leave her home in order to file an application at the Residential Tenancy Branch. The Tenant provided a copy of a note from her doctor dated December 9, 2011, which states, "She has been fatigued and forgetful over the last two to three months due to a medical problem".

It is important to note that the Tenant named her son and her husband as co-applicants on the Application for Dispute Resolution. The Tenant testified that her husband could not file the application because he doesn't speak English and that her son was only 16. When I suggested that her son could have filed the application, or picked up an application form at the Branch for her to fill in and then return it to the Branch, or she could have filed her application on-line, she stated that she did not know that there was a deadline to file her application.

Section 47(4) of the Act states that a tenant may dispute a notice issued under Section 47 of the Act by making an application for dispute resolution **within 10 days** after the date the tenant receives the notice. This information is also printed on the back of the Notice that the Tenant received. The Tenant acknowledged being served with the complete Notice form.

Section 66(1) of the Act states that the director may extend a time limit established by the Act only in **exceptional** circumstances. Based on the testimony of the Tenant, I do not find that there are exceptional circumstances in this case, and therefore I dismissed the Tenant's application for an extension of time.

Therefore, the Tenant's application to cancel the Notice was not heard and the conference was concluded.

### **Conclusion**

The Tenants' application for an extension of time to file an application to cancel the Notice to End Tenancy issued November 12, 2011, is dismissed without leave to re-apply. The Tenant's application to cancel the Notice was not heard.

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 21, 2011.

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Residential Tenancy Branch