



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MT, CNC

### Introduction

This hearing concerns an application by the tenant for more time to make an application to cancel a notice to end tenancy / and cancellation of a notice to end tenancy for cause. The tenant participated in the hearing and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing by way of registered mail, the landlord did not appear. Evidence submitted by the tenant includes the Canada Post tracking number for the registered mail.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began nearly 2 years ago. Monthly rent is \$500.00 and a security deposit of \$250.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated February 26, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is March 31, 2012. There are a total of 6 different reasons shown on the notice for its issuance.

The tenant acknowledged that he did not apply to dispute the notice within the 10 day period available for doing same after service; the tenant stated that as there were personnel changes in the agents representing the landlord, so too were there changes in the messages given to him in regard to the continuation of his tenancy. Specifically, the tenant claims that the agent who issued the notice was replaced by an agent who informed the tenant to disregard the notice. Ultimately, the tenant's uncertainty around

the landlord's position with regard to the continuation of his tenancy gave rise to his application to dispute the notice.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that a 1 month notice to end tenancy was posted on the tenant's door on February 26, 2012. Pursuant to section 90 of the Act, I find that the notice was deemed to have been received by the tenant on February 29, 2012, which is 3 days after posting. While the tenant had 10 days within which to file an application to dispute the notice, his application was filed on April 26, 2012, which is outside of that 10 day period.

I find that the reasons cited by the tenant for his late application are credible. Accordingly, I hereby grant the tenant's application for more time to make an application to cancel a notice to end tenancy.

In the absence of any application for dispute resolution by the landlord, and in the absence of an oral request at the hearing by the landlord for an order of possession, the landlord's notice is hereby set aside and the tenancy continues uninterrupted.

### Conclusion

The landlord's notice is hereby set aside. The tenancy continues in full force and effect.

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: May 18, 2012.

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Residential Tenancy Branch