



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC MNDC FF MT CNC OPT RR

### Introduction

This hearing dealt with applications by the landlord and the tenants. The landlord applied for an order of possession pursuant to a notice to end tenancy for cause, as well as for anticipated loss of rent for November 2012. The tenants applied to cancel the notice to end tenancy, as well as for an extension of time to apply to cancel the notice, and order of possession for the tenants and orders for a reduction in rent and monetary compensation.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the tenant's application in the conclusion of my decision.

### Preliminary Issue – Extension of Time

#### *Tenants' Submissions*

On September 8, 2012 the landlord served the tenants with a 30 day notice to end tenancy for cause. The tenants stated that they had previously been served, on August 18, 2012, with a notice to end tenancy for unpaid rent. The landlord made an application for an order of possession pursuant to the notice to end tenancy for unpaid rent, and served the tenants with the notice of hearing near the same time that the landlord served the notice to end tenancy for cause. The tenants submitted evidence in regard to both the unpaid rent and the alleged cause to end the tenancy. In the hearing on the landlord's application, the tenants became aware that they were required to apply to cancel the notice to end tenancy for cause. The tenants applied on September 27, 2012, to cancel the notice to end tenancy for cause.

#### *Analysis*

The tenants are not entitled to an extension of time. The notice to end tenancy for cause clearly indicates that tenants who seek to dispute the notice must apply for dispute resolution within 10 days of receiving the notice. In this case the tenants did not apply to cancel the notice until 19 days after receiving the notice.

Under section 66(1) of the Residential Tenancy Act, an extension of time can only be granted where the applicants have established that there are exceptional circumstances. I find that the applicants have failed to prove that exceptional circumstances prevented them from filing for review and I therefore dismiss the tenants' application to cancel the notice to end tenancy for cause.

As the tenants' application is dismissed, the landlord is entitled to an order of possession.

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

### Conclusion

The monetary portions of the landlord's and the tenants' applications are dismissed with leave to reapply.

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.

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 31, 2012.

---

Residential Tenancy Branch