



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MT

### Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy and an order giving the tenant more time to file his application. The landlord attended the hearing but the tenant did not.

### Issues to be Decided

Should the notice to end tenancy be set aside?  
Is the landlord entitled to an order of possession?

### Background and Evidence

The undisputed evidence before me is as follows. On March 26, 2013, the landlord served a one month notice to end tenancy for cause (the "Notice") on the tenant. The tenant filed his claim to dispute the Notice 29 days later, on April 24, 2013.

The landlord testified that she accepted rent from the tenant for the month of May with the understanding that he would only stay in the rental unit until after the hearing had been completed.

### Analysis

I accept the undisputed evidence before me. I find that the tenant received the Notice on March 26, 2013. Section 46 of the Act permits the tenant to file a dispute of the Notice within 10 days of receipt. The tenant waited 29 days and did not appear at the hearing to explain why he filed his claim so far beyond the statutorily prescribed timeframe.

Section 66 of the Act permits me to extend the time to file a dispute only where the party making the application can prove that extenuating circumstances prevented him from

complying with the timeframe. As the tenant did not appear at the hearing to explain the delay, I am unable to find extenuating circumstances and I therefore deny the request for more time to file the application and I dismiss the tenant's claim in its entirety.

I find that the rent accepted for the month of May was accepted with the clear understanding that it did not reinstate the tenancy but was merely occupational rent. I find that the tenancy will end on May 31, 2013.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55, upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant 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.

### Conclusion

The tenant's claim is dismissed and the landlord is granted an order of possession.

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 22, 2013

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Residential Tenancy Branch

