



# 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 their Application and to cancel a *One Month Notice to End Tenancy for Cause* (the "Notice") issued May 31, 2013.

Both parties gave affirmed testimony at the Hearing.

It was determined that the Landlord received the Notice of Hearing documents, including the Tenants' amended Application, on June 9, 2013.

The Tenant acknowledged receipt of the Landlord's documentary evidence.

### **Preliminary Matter**

The Tenants' application for an extension of time to cancel the Notice is not required. The Tenants filed their Application on June 6, 2013, and amended it on June 7, 2013, and therefore the Application was filed within the 10 day time limit.

### **Background and Evidence**

The Landlord gave the following affirmed testimony:

The Tenants moved into the rental unit in late November, 2012. This was early possession because the tenancy started on December 1, 2012. Monthly rent is \$1,300.00, due in advance on the last day of each month.

The Tenants are chronically late paying the rent. Two Notices to End Tenancy for Unpaid Rent have been issued, in April and in May, 2013. Rent was paid and the Notices for Unpaid Rent were canceled.

On May 31, 2013, the Landlord issued the Notice to End Tenancy for Cause and served the Tenants the same day. The Notice alleges that the Tenants are repeatedly late paying rent.

The Tenants paid rent late, as follows:

<b>Month</b>	<b>Rent due</b>	<b>Date rent paid</b>
December, 2012	November 30, 2013	December 1, 2013
January, 2013	December 31, 2013	January 4, 2013
February, 2013	January 31, 2013	February 4, 2013 (\$1,050.00) balance paid a few days later
March, 2013	February 28, 2013	March 4, 2013 (\$1,200.00) March 6, 2013 (\$100.00)
April, 2013	March 31, 2013	March 31, 2013 (\$1,200.00) April 8, 2013 (\$100.00)
May, 2013	April 30, 2013	May 2, 2013 (\$400.00) May 10, 2013 (\$500.00) May 12, 2013 (\$400.00)
June, 2013	May 31, 2013	May 31, 2013 (\$1,200.00) June 3, 2013 (\$100.00)
July, 2013	June 30, 2013	July 1, 2013 (\$1,240.00)

The Tenants always paid rent with cash. The Landlord did not give them receipts because they did not ask for them. When the Tenants requested receipts in June, 2013, she gave provided them receipts for all rent paid since the beginning of the tenancy. Copies of the receipts were provided in evidence.

The Landlord asked for an Order of Possession effective July 31, 2013.

The Tenant gave the following affirmed testimony:

The Tenants were late paying rent on a couple of occasions, but the Tenant does not remember when or how often because the Landlord didn't give him receipts.

The Tenant agreed that the e-mails provided in evidence were authentic and that he had been late paying rent in March and May, 2013. He was not certain about the other months, but didn't believe he was late that often.

The Tenant did not dispute the Notice to End Tenancy that he was served in April, 2013, because he paid the rent within 5 days after he got the Notice.

### **Analysis**

The Landlord seeks to end the tenancy because the Tenants are repeatedly late paying rent. The Residential Tenancy Branch Policy Guidelines determine that the definition of "repeatedly" late is at least three late payments. In this case, I find that the Tenants were late paying rent at least three times since December, 2012, and therefore I find that the Notice is a valid Notice. The Tenants' application to cancel the Notice is dismissed.

Section 55(1) of the Act states:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must** grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
  - (b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the testimony of the parties, I am satisfied that the Tenant received the 1 Month Notice to End Tenancy on May 31, 2013. I find that the effective date of the end of the tenancy was June 30, 2013. The Landlord asked for an Order of Possession effective July 31, 2013, and therefore further to the provisions of Section 55(1) of the Act, I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., July 31, 2013.**

### **Conclusion**

The Tenants' application is dismissed without leave to re-apply.

I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., July 31, 2013.** This Order must be served on the Tenants and 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: July 12, 2013

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Residential Tenancy Branch