



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Veterans Memorial Manor  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNC

### Introduction

The tenant applied under the *Residential Tenancy Act* (the “Act”) to cancel a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”).

The tenant, an advocate for the tenant, and two agents for the landlord (the “agents”) attended the hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing.

The agents confirmed that the tenant was not served with the landlord’s evidence prior to the hearing. As a result, the landlord’s evidence was excluded due to the evidence not being served in accordance with the rules of procedure. The tenant did not submit evidence with his application for dispute resolution. As an alternative, both parties were advised that I would consider their affirmed testimony during the hearing.

### Issue to be Decided

- Should the 1 Month Notice be cancelled?

### Background and Evidence

The tenant confirmed that he was served with a 1 Month Notice dated July 23, 2013 on July 23, 2013. The tenant did not apply to dispute the 1 Month Notice until August 8, 2013. The tenant did not apply for more time to dispute a 1 Month Notice in his application for dispute resolution. The agents testified that the effective vacancy date on the 1 Month Notice was August 31, 2013 and that one cause was listed on the 1 Month Notice; “Tenant has caused extraordinary damage to the unit/site or property/park”.

Analysis

Based on the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 47(4) of the *Act* states that the tenant may dispute a 1 Month Notice within 10 days after the date the tenant receives the 1 Month Notice. In the matter before me, the tenant testified that he receive the 1 Month Notice on July 23, 2013 but did not dispute the 1 Month Notice until August 8, 2013. I find the deadline under section 47 of the *Act* to dispute the notice would have been August 2, 2013. The tenant did not apply until August 8, 2013 and did not apply for an extension of time to dispute the 1 Month Notice. As a result, and in accordance with section 47(5) of the *Act*, I find that the tenant is conclusively presumed to have accepted that the tenancy ended on August 31, 2013, the effective vacancy date on the 1 Month Notice. Therefore, **I dismiss** the tenant's application in full as the tenant did not apply to dispute the 1 Month Notice within the permitted 10 day timeline under the *Act*.

I do not find it necessary to consider the cause listed in the 1 Month Notice as a result. The agents made an oral request for an order of possession during the hearing effective September 30, 2013 at 1:00 p.m. to allow the tenant more time to secure a new residence. Section 55 of the *Act* states:

**Order of possession for the landlord**

**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.

[emphasis added]

Given the above and taking into account the agents' oral request for an order of possession during the hearing, **I find** that the landlord is entitled to an order of possession effective on the requested date of **September 30, 2013 at 1:00 p.m.** This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

I dismiss the tenant's application in full, without leave to reapply.

I grant the landlord an order of possession effective September 30, 2013 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 16, 2013

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Residential Tenancy Branch

