



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

Landlords' application: OPC, FF

Tenant's application: MT, CNC

### Introduction

This Hearing was convened to consider cross applications. The Landlord seeks an Order of Possession for Cause and to recover the cost of the filing fee from the Tenant.

The Tenant seeks more time to file an application to cancel the Notice to End Tenancy for Cause issued June 11, 2013 (the "Notice"), and to cancel the Notice.

The parties gave affirmed testimony at the Hearing.

### Preliminary Matter

The Tenant has made application for more time to file her application to cancel the Notice.

The Tenant testified that she received the Notice on June 19, 2013, at 5:30 p.m. She stated that she had filed an application to cancel it on June 19, 2013, but that she did not pick up the Notice of Hearing documents. That application was scheduled to be heard on July 19, 2013, but no one signed into the teleconference. Therefore the Tenant's application was dismissed with leave to reapply.

Section 66 of the Act states:

- 66** (1) The director may extend a time limit established by this Act **only in exceptional circumstances**, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*.
- (2) Despite subsection (1), the director may extend the time limit established by section 46 (4) (a) *[landlord's notice: non-payment of*

*rent]* for a tenant to pay overdue rent only in one of the following circumstances:

- (a) the extension is agreed to by the landlord;
- (b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director.

**(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.**

(emphasis added)

Section 47 of the Act provides that a notice to end tenancy for cause is effective one month after the date the tenant receives the notice and the day before the day in the month that rent is payable under the tenancy agreement. The parties agreed that rent is due on the first day of each month.

In this case, the Tenant was served with the Notice on June 19, 2013. Therefore the effective date of the Notice was July 31, 2013.

Pursuant to the provisions of Section 66(3) of the Act, **the Tenant's application for more time to file her application to cancel the Notice is dismissed and the Notice is upheld.**

The Landlord asked for an Order of Possession. He stated that the Tenant has paid rent for "use and occupancy only" for the month of September, 2013. Therefore, pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlords with an Order of Possession **effective September 30, 2013.**

I find that the Landlord is entitled to recover the cost of the filing fee from the Tenant. Pursuant to the provisions of Section 72 of the Act, the Landlords may deduct the filing fee in the amount of **\$50.00** from the security deposit held for the Tenant.

### **Conclusion**

I hereby provide the Landlord an Order of Possession **effective 1:00 p.m., September 30, 2013.** This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlords may deduct **\$50.00** from the security deposit held for the Tenant.

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: September 11, 2013

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Residential Tenancy Branch

