



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FRASER VALLEY KINSMAN HOUSING SOCIETY, TERRA PROPERTY  
MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MT, O, CNR, OPR, FF

### **Introduction**

The tenant applies for an order for more time to make this application, and an “other” order, which based upon her cited “Details of the Dispute” is in fact an application to cancel a 10 day Notice to End Tenancy. At the hearing, the landlord applied for an Order of Possession. The tenant failed to attend the hearing.

### **Issue(s) to be decided**

1. Should the tenant be allowed more time to make her application?
2. Is the Notice valid to end the tenancy?
3. Is the landlord entitled to an Order of Possession?

### **Background and Evidence**

1. This tenancy began November 1, 2012. Monthly rent is subsidized, with the tenant responsible for \$595.00 per month, which is paid directly to the landlord by the Ministry. All rent is paid up to and including for January, 2014.
2. Prior to October 21, 2013, the hydro was in the name of the landlord, as the tenant did not qualify to have the utility in her own name. The tenant was required to pay the hydro costs to the landlord, but failed to do so, and as of October 22, 2013 owed the landlord \$863.76.
3. Subsequent to October 21, 2013, the hydro is no longer in the landlord’s name.
4. The tenant was given a 10 day Notice to End for the unpaid hydro on November 6, 2013. She filed her dispute of the notice on November 11, 2013.
5. The landlord testified that none of the \$863.76 has been paid by the tenant, either before or after the notice was served to her.

### **Analysis**

Section 66 of the Residential Tenancy Act provides for limited circumstances in which I have the authority to extend or modify a time limit for the dispute of a Notice for non-payment of rent or utilities. In this case, such an order is not required, as the application was in fact filed within the required 5 day period.

Section 46(5) provides that when tenants do not pay arrears within 5 days of receipt of a 10 day Notice to End Tenancy, (given for non-payment of rent or utilities), or do not

apply to dispute that notice within 5 days of receipt, the tenants are conclusively presumed to have accepted that the tenancy ends on the effective day of the notice, and must vacate the rental unit by that date. In this case, the tenant in fact filed a dispute, but as the tenant did not attend the hearing, that dispute is now rendered moot and considered abandoned. The tenant's application is dismissed. Section 46(5) again applies (in the absence of any further dispute), and the tenant is conclusively presumed to have accepted that the ending of the tenancy.

As the landlord has accepted subsequent rent on a use and occupation basis, the tenancy is extended to, and shall end, January 31, 2014. An Order of Possession is granted to the landlord.

**Conclusion**

The tenant's application is dismissed. The landlord is granted an Order of Possession, effective January 31, 2014.

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: January 14, 2014

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Residential Tenancy Branch

