



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DONADA INDUSTRIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** MT, CNC, OPC

### **Introduction**

This hearing dealt with applications by the tenant and the landlord pursuant to the *Residential Tenancy Act*. The landlord had served a notice to end tenancy for cause and the tenant applied for an order to set aside this notice and for more time to do so. The landlord applied for an order of possession pursuant to this notice.

Both parties attended the hearing and had opportunity to be heard.

### **Issue to be Decided**

Does the landlord have grounds to end this tenancy? Is the tenant entitled to more time to dispute the notice to end tenancy?

### **Background and Evidence**

The tenancy began on April 01, 2009. On October 24, 2013, the landlord served the tenant in person, with a one month notice to end tenancy for cause. The notice was in the approved format of two pages. The tenant stated that she had not fully recovered from surgery that she had had one month prior to receiving the notice and therefore asked her friend to make an application to dispute the notice. The application was made on November 25, 2013.

### **Analysis**

Based on the sworn testimony of both parties, I find that the tenant received the notice to end tenancy on October 24, 2013. The tenant did not apply to dispute the notice until November 25, 2013, a full 32 days after receiving the notice.

Section 47(4) of the Act provides that tenants have 10 days in which to dispute a one month notice to end tenancy for cause, failing which they are conclusively presumed to have accepted the end of the tenancy.

The tenant has applied for more time to apply to dispute the notice. I am unable to grant the tenant more time to make her application without proof that exceptional circumstances prevented her from complying with the statutorily prescribed timeframe.

Section 66(1) of the Act provides that the director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59(3). The tenant testified that she was ill from surgery that she had had about one month prior to receiving the notice to end tenancy. She also stated that due to her illness, she asked her friend to make the application and the friend failed to do so in a timely manner. In addition, I note that the tenant made application after the landlord applied for an order of possession.

Based on the testimony of the tenant, I do not find exceptional circumstances prevented her from applying to dispute the notice to end tenancy, in a timely manner and accordingly I dismiss the request for an extension of time to apply to dispute the notice. The notice is upheld and the tenancy will end in accordance with the notice. The tenant's claim to set aside the Notice is dismissed.

I find that the landlord is entitled to an 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 notice to end tenancy is upheld and I grant the landlord an order of possession effective two days after service on the tenant. The tenant's application is dismissed in its entirety.

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 15, 2014

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Residential Tenancy Branch

