



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding More Than A Roof Housing  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

CNC, MT

### Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause and for more time to apply to set aside the Notice to End Tenancy.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present oral evidence, to ask relevant questions, and to make relevant submissions.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

### Issue(s) to be Decided

Should the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside and should the Tenant be granted more time to apply to set aside the Notice to End Tenancy?

### Background and Evidence

The Landlord and the Tenant agree that a 1 Month Notice to End Tenancy for Cause was personally served to the female Tenant on February 25, 2014. The parties agree that the Notice to End Tenancy declared that the Tenant was required to vacate the rental unit by March 31, 2014.

The Landlord and the Tenant agree that the Notice to End Tenancy declares that the Landlord is ending the tenancy because the Tenant has been repeatedly late paying rent.

The Landlord and the Tenant agree that on February 25, 2014 the female Tenant asked the Agent for the Landlord if the Landlord would continue the tenancy if the male Tenant moved out. The parties agree that the Tenant was advised the Landlord would not consider continuing the tenancy even if the male Tenant moved.

The Landlord and the Tenant agree that on February 25, 2014 the female Tenant asked the Agent for the Landlord if the Landlord would consider extending the end of the tenancy until June 30, 2014. The parties agree that the Agent for the Landlord told the Tenant that she would “discuss it with her team”.

The Landlord and the Tenant agree that on, or about, March 11, 2014 the Agent for the Landlord informed the Tenant that the Landlord did not wish to extend the tenancy past the effective date of the Notice to End Tenancy. The male Tenant stated that upon learning that the Landlord would not consider extending the end date of the tenancy, the Tenant file an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy.

The Agent for the Landlord opposed the application to grant more time to apply to set aside the Notice to End Tenancy because the Agent for the Landlord clearly informed the female Tenant that the option of extending the tenancy until June 30, 2014 did not impact the Notice to End Tenancy that had been served.

### Analysis

Section 66(1) of the *Act* authorizes me to extend the time limit for setting aside a Notice to End Tenancy only in exceptional circumstances. The word “exceptional” means that I am unable to extend this time limit for ordinary reasons. The word “exceptional” implies that the reason for failing to meet the legislated time lines is very strong and compelling. A typical example of an exceptional reason for not complying with the timelines established by legislation, would be that the Tenant was hospitalized for an extended period after receiving the Notice.

I note that the Notice to End Tenancy clearly informs the Tenant that if the Notice is not disputed within ten days the Tenant must move out of the unit on the effective date of the Notice.

The undisputed evidence is that the Tenant asked the Landlord to extend the effective date of the Notice to End Tenancy. Although the Agent for the Landlord indicated that the request would be considered, there is no evidence that the Tenant was led to believe that the request would be granted. In the absence of a clear agreement to extend the end date of the tenancy or a mutual agreement to set aside the Notice to End Tenancy, I find that the Tenant was obligated to dispute the Notice within the legislated timelines if the Tenant wished to remain in the rental unit past the effective date of the Notice.

I do not find that the reasons provided by the Tenant are strong and compelling reasons for failing to dispute the Notice to End Tenancy within 10 days of receiving the Notice. I therefore dismiss the Tenant's application for more time to apply to set aside the Notice to End Tenancy.

Section 47(5) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 47 of the *Act* and that the tenants must vacate the rental unit by that date unless the tenants dispute the notice within ten days of receiving it. As the Tenant did not dispute the Notice to End Tenancy within the legislated time period, I find that the Tenant accepted that the tenancy was ending on March 31, 2014, pursuant to section 47(5) of the *Act*.

As the Tenant is conclusively presumed to have accepted that the tenancy is ending on March 31, 2014, I dismiss the Tenant's application to set aside this Notice to End Tenancy.

### Conclusion

As I have determined that this tenancy is ending pursuant to section 47(5) of the *Act*, I dismiss the Tenant's application to set aside the One Month Notice to End Tenancy and I grant the Landlord an Order of Possession, as requested at the hearing, which will be effective two days after it is served upon 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: April 28, 2014

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Residential Tenancy Branch

