



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNC

### Introduction

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

The tenants, an agent for the tenants, a witness for the tenants, and the landlord 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 parties agreed that they received and had the opportunity to review the documentary evidence submitted by the other party. I find the parties were sufficiently served as a result.

### Preliminary and Procedural Matter

The agent for the tenants requested an adjournment to provide an opportunity for the tenants to request and obtain further evidence in support of their position to dispute the 1 Month Notice, including the request for police report documents. I have considered the criteria for an adjournment under the Rules of Procedure.

The tenant agent’s request for an adjournment was denied as I find there will be a greater prejudice to the landlord in waiting for an order of possession as the landlord was entitled to request an order of possession, and did so during the hearing. Furthermore, I have considered that the tenants could have already requested the police report documents and had not done so and wrote in their documentary evidence that they wanted the Residential Tenancy Branch to request those documents on their behalf. There was no evidence presented that the tenants had already made a request for police report records and were awaiting a response to their request. Furthermore, the tenants and the agent for the tenants were advised that it was not the role or responsibility of the Arbitrator to request records on their behalf. Finally, I find the tenant’s request for an adjournment to be moot given that the tenants did not make an application for more time to make an application to dispute a notice to end tenancy, and the tenants were conclusively presumed to have accepted that the tenancy ended on the effective date of the 1 Month Notice, as they failed to dispute the notice in

accordance with the timelines set out in section 47 of the *Act*, which will be explained further below.

### Issue to be Decided

- Should the 1 Month Notice be cancelled?

### Background and Evidence

The tenants confirmed that they were served with a 1 Month Notice dated April 13, 2014 on April 13, 2014 at approximately 7:00 p.m. The tenants did not apply to dispute the 1 Month Notice until April 25, 2014. The tenants did not apply for more time to dispute a 1 Month Notice in their application for dispute resolution. The effective vacancy date listed on the 1 Month Notice is June 1, 2014 and there are five causes listed on the 1 Month Notice.

### Analysis

Based on the above and on the balance of probabilities, I find the following.

Section 47(4) of the *Act* states that a tenant may dispute a 1 Month Notice within 10 days after the date the tenants receive the 1 Month Notice. In the matter before me, the tenants testified that they received the 1 Month Notice on April 13, 2014, but did not dispute the 1 Month Notice until April 25, 2014. I find the deadline under section 47 of the *Act* to dispute the notice would have been April 23, 2014, which is a Wednesday. The tenants did not apply to dispute the 1 Month Notice until Friday, April 25, 2014, 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 tenants are conclusively presumed to have accepted that the tenancy ended on June 1, 2014, the effective vacancy date on the 1 Month Notice. Therefore, **I dismiss** the tenants' application in full as the tenants 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 five causes listed in the 1 Month Notice as a result. The landlord made an oral request for an order of possession during the hearing effective June 30, 2014 at 1:00 p.m. to allow the tenants 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.**

**[my emphasis added]**

Given the above and taking into account the landlord's 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 **June 30, 2014 at 1:00 p.m.** This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that court.

#### Conclusion

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

I grant the landlord an order of possession effective June 30, 2014 at 1:00 p.m. This order must be served on the tenants 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: June 17, 2014

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Residential Tenancy Branch

