



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PLAN A REAL ESTATE SERVICES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

MT, CNC, FF

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for more time to cancel the Notice to End tenancy; to cancel a Notice to End Tenancy for cause and to recover the filing fee from the landlord for the cost of this application.

The tenant's advocate, a witness for the tenant, and an agent for the landlord attended the conference call hearing and gave sworn testimony. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Preliminary Issues

The tenant has applied for more time to cancel a Notice to End Tenancy for cause. The Notice is dated June 18, 2014, the tenant has stated on the application that the Notice was not served until July 17, 2014 and the tenant filed this application on July 22, 2014. The tenant had 10 days in which to file this application to cancel the Notice to End Tenancy. As I have no evidence to the contrary to show that the Notice was served in June, 2014 I find the tenant does not require more time to file this application to cancel the Notice.

### Issue(s) to be Decided

Is the tenant entitled to have the One Month Notice to End Tenancy set aside?

### Background and Evidence

The parties attending agreed that this tenancy started originally with four tenants on September 01, 2013. This was a fixed term tenancy that ended on January 31, 2014 and then reverted to a month to month tenancy. Rent for this unit was \$2,300.00 per month, due on the 1<sup>st</sup> of each month and the tenants paid a security deposit of \$1,150.00 on August 27, 2013.

The tenants advocate states that three of the original tenants have since moved out and left the country. The tenancy continued with this tenant and some other occupants have been allowed to move into the unit by the tenant.

The landlord's agent testified that the tenant was served a One Month Notice to End Tenancy by a former property manager. The landlord's agent at first stated this had been served on June 18, 2014 in person and then stated it might have been served on July 17, 2014 by posting it to the door. The landlord's agent testified that she was not present when the Notice was served upon the tenant but believes that both pages of the Notice had been served.

The tenant's witness testified that he was present when the Notice was served as he is an occupant living in the unit. The Notice was served in person by the other real estate agent on July 17, 2014. The witness testified that he went with the tenant to file the application to dispute the notice on July 22, 2014 at the Residential Tenancy Office in Burnaby. The tenant's witness testified that the tenant only received the first page of the Notice and were not given any documentary information as to the reasons the landlord wanted to end the tenancy. The tenant's witness testified that the other real estate agent verbally told the tenant that they were being evicted due to Strata fines.

The landlord's agent testified that the One Month Notice is a single page document with the reasons given on the reverse of the page.

### Analysis

I have reviewed the documentation provided by the tenant for this application. The tenant's copy of the One Month Notice is a single sheet with nothing on the reverse side. The landlord's agent was not present when the One Month Notice was served upon the tenant and I find the

landlord's agents testimony as to the date and method of service to be less than credible as two different dates and methods of service were mentioned. The landlord's agent who did serve the Notice has not attended the hearing to provide testimony under oath.

In order for a legal Notice to End Tenancy to be valid and enforceable it must be complete and the burden of proof falls to the landlord to show that both pages of this Notice were served to the tenant. In this case I find the landlord has not met the burden of proof to prove that the Notice was served on June 18, 2014 or that a complete Notice was served and as a result I find that the tenant's application is upheld.

### Conclusion

The tenant's application is allowed. The One Month Notice to End Tenancy for cause is cancelled and the tenancy will continue.

I further Order, that the landlord bear the cost of the filing fee paid for this hearing. The tenant may therefore deduct **\$50.00** from future rent payable to the landlord.

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 24, 2014

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Residential Tenancy Branch

