



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes          CNC

### Introduction

This is an application to cancel a Notice to End Tenancy that was given for cause and an application to allow the tenant more time to file the application to cancel a Notice to End Tenancy.

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent was served with notice of the hearing by personal service on March 10, 2015 however the respondent did not join the conference call that was set up for the hearing.

Since the respondent was served with notice of today's hearing I conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

### Issue(s) to be Decided

The issues are whether or not to grant an extension of time for the tenants to file an application to cancel a Notice to End Tenancy, and if that is granted whether or not to cancel the Notice to End Tenancy.

### Background and Evidence

The applicant testified that the reason they did not apply within the 10 day time limit was that although her husband did receive the Notice to End Tenancy on February 26, 2015, he hid it from her and therefore she did not become aware of it until about a week later.

### Analysis

This Notice to End Tenancy has been given under section 47 of the Residential Tenancy Act, and section 47(4) & (5) of the Residential Tenancy Act states:

- (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Section 66 of the residential tenancy act states:

**66(1)** The director may extend a time limit established by this Act only in exceptional circumstances

In this case however it is my finding that the applicants have not shown that there were exceptional circumstances.

The tenants admitted that one of the tenants receive the notice on February 26, 2015, and hiding that notice from the other tenant is not considered an exceptional circumstance that would allow me to extend the time limit established by the Act.

Therefore, since I am not granting an extension, the tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and I will not be canceling the Notice to End Tenancy.

### Conclusion

The application to extend the time to apply to cancel a Notice to End Tenancy is denied, and the application to cancel a Notice to End Tenancy is therefore dismissed without leave to reapply.

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 15, 2015

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Residential Tenancy Branch

