



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      MT, CNC

### Introduction

This hearing was set to deal with an application by the tenants for orders setting aside a 1 Month Notice to End Tenancy for Cause and an order granting them more time to make the application.

Prior to the hearing the tenants submitted a written request for an adjournment. The request was accompanied by an e-mail from the male tenant's hospital social worker to the family's social home social worker. The e-mail advised as follows:

"The following is to confirm that the patient [male tenant] was admitted to Vancouver General Hospital on May 14, 2015 (he was air ambulated from [tenant's northern home community]) following a serious accident involving a train. [Male tenant] is currently hospitalized on the Burn, Plastic and Trauma Unit. He has sustained serious injuries to both his feet and has had to undergo surgeries to both his feet. At present, we do not have a discharge date yet but the plan will be to Air Ambulance him back to [his home community] Hospital at some point over the next few weeks. Furthermore, [the patient's spouse] is currently at VGG with her youngest child (7 mo old baby girl) to provide support and assistance to her husband.

Therefore, would you kindly cancel the hearing re: possible eviction of [male patient] and his wife which was scheduled for June 4, 2015 and would you kindly continue to pay the rent for the month of June 2015."

The letter from the tenants' advocate set out the reason for the adjournment request as follows:

"[Female tenant] . . . is currently in Vancouver where her husband is hospitalized following a serious accident. [Tenants] have both been in Vancouver since May 14<sup>th</sup>. They have not received any evidence package from their landlords, as it likely arrived while they were in Vancouver. They are both under significant emotional distress, and have not been able to prepare for this hearing."

These documents were not sent to the landlord in advance of today's hearing.

The landlord said that the evidence package had been sent to the tenants by registered mail and had been picked up. The records of Canada Post show that the evidence was mailed on May 19, 2015 and signed for by an individual who is not one of the tenants on May 20. The female tenant advised that this individual is her mother-in-law who is caring for their other two children. The mother-in-law e-mailed the evidence package to the female tenant yesterday.

The female tenant advised that her husband's discharge date is uncertain as he has an infection but they anticipate he will be air lifted to the hospital in his community in a couple of weeks. Her plan is to stay in Vancouver until her husband is transferred to their home community. Once she is back home, where they have another advocate, she will be able to participate in a hearing.

The landlord stated that she preferred to get this matter dealt with as soon as possible; she had set aside this time for the hearing; and she had hoped to have this matter resolved before she left on holidays. When I offered to schedule the adjournment to a date that would not interfere with her holiday plans the landlord advised that she would reschedule her holidays to accommodate the adjourned date.

The landlord and the female tenant had conflicting information as to whether anyone was staying in the rental unit while the tenants are in Vancouver. The landlord says the mother-in-law told her she was staying at the unit; the female tenant says she only stayed one night and is now only going back and forth to pick up things for the children. When asked whether there were any issues at the rental unit since the date of the accident the landlord did not have any specific information.

I told the parties that I would grant the request for an adjournment. When deciding to grant the adjournment I considered the following factors;

- The male tenant's medical condition and continued hospitalization and the female tenant's continued attendance at a hospital in a community a long distance from their home makes it very difficult for them to prepare and serve any evidence in response to the landlord's allegations. A fair hearing cannot be held unless both parties have had a reasonable opportunity to prepare and serve their evidence.
- While the landlord's evidence was served within the time lines required by the Rules of Procedure and well in advance of the hearing, they were sent to the tenants after the male tenant's admission to hospital.
- The need for the adjournment does not appear to arise out of the intentional actions or neglect of the tenants.

- Any possible prejudice to the landlord is mitigated by the following factors;
  - The tenants are not in the rental unit although the mother-in-law is spending some time there.
  - Arrangements have been made for the payment of the June rent.
  - If valid, the effective date of the notice to end tenancy is May 31. The requested adjournment is only for a few weeks.

Considering the male tenant's prognosis and the landlord's desire to have this matter resolved as soon as possible I proposed **June 25, 2015 at 1:00 am** as the adjourned date. Both parties agreed to this date and time.

The tenants' advocate undertook to send copies of the documents submitted to the Residential Tenancy Branch in support of the request for the adjournment to the landlord as soon as possible.

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: June 04, 2015

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Residential Tenancy Branch

