



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Peak Property Management Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MT

### Introduction

This hearing was convened to address a claim by the tenant for an order setting aside a notice to end this tenancy and an extension of time in which to file his application. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the tenant entitled to an extension of time to file his application for dispute resolution?

### Background and Evidence

The parties agreed that the tenant was served with a 1 month notice to end tenancy for cause (the "Notice") on June 24, 2015. The tenant filed his application for dispute resolution on July 17, 2015. The tenant initially testified that he did not file his application with 10 days of receiving the Notice because he was waiting for his social worker to return from a 2 week vacation so he could discuss the Notice with the worker. When I asked the tenant why he did not file his application immediately upon the worker's return instead of waiting an additional week, the tenant stated that he had been ill for 8 days prior to attempting to contact his worker.

The landlord testified that it was important that the tenancy end no later than September 30 because he had received numerous complaints from other tenants and from residents of neighbouring properties about the tenant's misbehaviour. Specifically, the landlord testified that the tenant engaged in erratic behaviour when under the influence of what the landlord believed to be illegal drugs and would bang on his walls and floors and scream profanities and throw things from his patio. The landlord stated that he had received the latest complaints on September 8 and 16. The landlord testified that he is concerned for the safety of other residents of the secure building because the tenant is in the practice of propping doors open, which can give access to anyone off the street.

The landlord stated that because of the tenant's actions, other occupants of the building have threatened to move from the building.

The tenant argued that he had not misbehaved for months and strenuously denied that illegal drugs caused his behaviour problems, suggesting instead that it was prescription medication which led to his outbursts.

### Analysis

Section 47(4) of the Act requires that tenants who wish to dispute a notice to end tenancy for cause do so within 10 days of receiving the notice. Section 66(1) of the Act permits me to extend a time limit only where the applicant can prove that exceptional circumstances prevented them from complying with the statutorily prescribed time limit. I am unable to find that exceptional circumstances prevented the tenant from disputing the Notice within 10 days. The tenant provided no evidence to corroborate his claim that he was seriously ill for 8 days and I do not accept that if he required assistance in filing his claim there was no one who could assist him apart from his social worker. I find that in the absence of exceptional circumstances, I must deny the tenant's claim for more time to file his application.

Section 47(5) of the Act provides that because the tenant did not file his application for dispute resolution within 10 days of receiving the Notice, he is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I therefore dismiss the tenant's claim.

Because this hearing was not scheduled until well after the effective date of the Notice, the tenancy has continued beyond the effective date. Section 68(2) of the Act gives me some discretion as to when to set the end of the tenancy. The tenant argued that he has not yet secured other housing and asked that the tenancy be extended until October 31 while the landlord asked that the tenancy end on September 30. While I appreciate that the tenant needs time to find alternative housing, at the hearing, the tenant acknowledged that he has repeatedly disrupted other occupants of the building. Regardless of whether the cause of the disruptions was from illicit or prescription drugs, the tenant's actions have had a serious impact on other occupants and have prevented the landlord from providing the occupants with quiet enjoyment of their units, which the landlord is obliged to provide. I am not confident that the tenant can continue in the tenancy for another 6 weeks without causing further disruptions and for that reason, I order that the tenancy end on September 30, 2015.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55, upon the request of a landlord,

I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The tenant's application is dismissed. The landlord is granted an order of possession effective September 30, 2015.

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 21, 2015

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Residential Tenancy Branch

