



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      O, CNC, OPC, FF

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for cause, and a request for recovery of the \$50.00 filing fee.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for cause, and a request for recovery of the \$50.00 filing fee. The tenants are also requesting an extension of time to apply to cancel a Notice to End Tenancy.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed

### Issue(s) to be Decided

The first issue I dealt with was whether or not to grant an extension of time to the tenants to apply to cancel the Notice to End Tenancy.

### Background and Evidence

On October 16, 2015 the landlord personally served the tenants with a one-month Notice to End Tenancy for cause.

The tenants did not file their application within the ten-day time limit stating that they had not read the Notice to End Tenancy and assumed they had 30 days to file a dispute of the notice.

The tenants further argued that they had filed a previous dispute of the notice however they had been unable to get into the Residential Tenancy Branch to pick up the papers and therefore that file was canceled and they had to file again on November 16, 2015.

The male tenant testified that he was unable to get the documents within the time frame because he was working out of town.

### Analysis

Sections 40(4) & 40(5) of the Manufactured Home Park 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 manufactured home site by that date.

At the beginning of the conference call the parties agreed that the Notice to End Tenancy was personally served on October 16, 2015 and therefore the tenants would have to have applied by October 26, 2015. In this case the tenants initially applied on November 9, 2015 however they subsequently abandoned that claim and re-filed on November 16, 2015, a full 30 days after they receive the notice.

The tenants are requesting an extension of time to file their application; however it is my finding that the tenants do not have reasonable grounds for an extension. First of all the tenants claim that they thought they had 30 days to file their application, however right on the Notice to End Tenancy that was served on the tenants, under this section titled "Information for Tenants who Receive This Notice to End Tenancy", it clearly states that the tenants have 10 days to file a notice and that if they fail to do so they are presumed to have accepted the end of the tenancy and must move. Therefore it is my finding that arguing that they thought they had 30 days is not a reasonable ground for an extension.

The tenants further argued that the male tenant was working out of town at the time he received the Notice to End Tenancy, and therefore could not apply within the ten-day time limit, however this contradicts their original statement in which they said they did not apply in time because they thought they had 30 days, and secondly I fail to see why the other respondent could not have filed the dispute of the notice. Therefore it's my finding that this is not a reasonable ground for granting an extension to file a dispute of the notice.

I therefore deny the tenants request for an extension of time to dispute the Notice to End Tenancy and I will not be canceling the Notice to End Tenancy, because the tenants are conclusively presumed to have accepted that the tenancy ends.

I therefore allow the landlords request for an Order of Possession and recovery of his filing fee.

Due to the fact that complying with this order will require the removal of the trailer from the property is my decision that a reasonable amount of time is required and I therefore have issued an Order of Possession for 5:00 PM on February 29, 2016.

Conclusion

The tenant's application has been dismissed in full without leave to reapply.

I have issued an Order of Possession to the landlord for 5 PM on February 29, 2016.

I have issued a monetary order for the tenants to pay \$50.00 to the landlord to cover the landlords filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: January 11, 2016

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Residential Tenancy Branch

