



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing addressed the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47

"Tenant TB" did not attend this hearing, which lasted approximately 30 minutes. The other tenant GP, ("tenant") and the landlord's agent, landlord GB ("landlord") attended the hearing and were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

### Preliminary - Service of 1 Month Notice

The landlord testified that tenant TB was personally served with the landlord's 1 Month Notice to End Tenancy For Cause, dated February 29, 2016 ("1 Month Notice"), on the same date, at the rental unit. The landlord provided a proof of service signed by a witness. The landlord testified that tenant TB refused to sign the proof of service and had indicated such on the proof of service. The tenant disputed receiving the 1 Month Notice on February 29, 2016 and testified he only heard of the 1 Month Notice when the property manager questioned him on March 30, 2016 about vacating the rental unit. The tenant testified that the witness proof of service indicates that the witness observed the manager serve the 1 Month Notice on March 29, 2016. The landlord's response to the discrepancy was that it was an error. She explained that the top portion of the proof of service sheet was completed using the numerical form of month and in error the wrong numerical month was entered.

Upon review of the proof of service sheet, I note that although the top portion indicates the numerical designation for March the lower portion of the sheet shows the month February written out. The manager of the rental unit provided a letter to file that

indicates the 1 Month Notice was served in person to tenant TB on February 29, 2016. Further, the 1 Month Notice itself is dated February 29, 2016. Based on the above reasons, I prefer the testimony of the landlord over the tenant's. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was served with the landlord's 1 Month Notice on February 29, 2016, the day I find it was personally served.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not file an application, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must move out of the rental unit.

Based on the landlord's testimony, I find that the tenants were served with an effective notice. The tenants filed an application ("Application") to dispute the 1 Month Notice on March 30, 2016. The tenants did not request more time to file the Application and did not in any event provide a reason for the delay that would allow the application of section 66(1) of the *Act* which permits the extension of a time limit in exceptional circumstances. Based on the above, I find I cannot extend the time to file the Application and although the tenants' filed an application to dispute the 1 Month Notice, they did not file within 10 days. Therefore the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must move out of the unit. I find that the landlord is entitled to an order of possession.

### Conclusion

The tenant's application to cancel the Notice is dismissed.

An order of possession is granted to the landlord effective May 31, 2016 at 1:00 p.m.

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: May 06, 2016

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Residential Tenancy Branch