



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MT

### Introduction

On June 3, 2016, the Tenants made an Application for Dispute Resolution for more time to cancel a 1 Month Notice to End Tenancy For Cause, dated April 30, 2016 ("the Notice").

The Tenants attended the teleconference hearing; however, the Landlord did not. The Tenant W.W. testified that he served the Landlord with the Notice of Hearing on June 10, 2016, by handing the Notice of Hearing directly to an agent of the Landlord. I find that the Landlord was duly served with the Notice of Hearing pursuant to section 89 of the Act.

### Preliminary and Procedural Issues

The Tenants identified a spelling mistake of one of the Tenant's surnames. The Application is amended to correct the spelling.

### Issue to be Decided

Should the 1 Month Notice To End Tenancy For Cause dated April 14, 2016 be cancelled?

### Background and Evidence

The Tenant's advocate submits that the tenancy began on April 30, 2016, as a month to month tenancy. Rent in the amount of \$550.00 is paid by the Ministry to the Landlord on the last day of each month. A security deposit in the amount of \$250.00 and a pet deposit of \$100.00 was paid to the Landlord by the Tenants.

The Tenant's advocate stated that the Landlord did not serve the Tenants with the Notice, until May 20, 2016. He submits that the Landlord approached the Tenants and

asked when they will be moving out. They submit that the Landlord made reference to a Notice to End Tenancy that was allegedly issued to them. The Tenant's advocate submits that the Landlord never served the Tenants with the Notice until after the Tenants sent the Landlord a letter requesting a copy of the Notice.

The Tenant's advocate states the Tenants sent the Landlord a letter on May 18, 2016, asking for a copy of the Notice. The Tenants testified that they received the 1 Month Notice to End Tenancy For Cause dated April 30, 2016, in person from the Landlord on May 20, 2016.

Notice informed the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice also informed the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit on the date set out on page 1 of the Notice.

The Tenants submit that they went to Service BC to dispute the Notice within the required 10 day timeframe after receiving it but could not file because they did not have the \$100.00 filing fee. The Tenants did not have proof of their income to qualify for a fee waiver and they needed to go to the Ministry to get a release of personal information to prove their income. The Tenants submit that immediately after receiving the proof of income from the Ministry, they went to Service BC and filed their application to dispute the Notice.

### Analysis

With respect to the Tenants request for more time to dispute the Notice, section 66 of the *Act* gives an Arbitrator authority to extend a time limit established by the *Act*. An Arbitrator must not extend the time limit to make an application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the Notice. In this case, I find that the Tenants did not receive the Notice until May 20, 2016, and therefore the effective date of the Notice automatically corrects under section 53 of the *Act* to be June 30, 2016.

After considering the testimony and evidence of the Tenants and the Advocate, I find the circumstances surrounding the issuance of the Notice, and the Tenants efforts to dispute the notice were unusual. I grant the Tenants more time to make their application to cancel the Notice.

In the matter before me, the Landlord has the onus of proof to prove that the Notice is valid. I find that the Landlord was properly served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the Notice.

Therefore, since the Landlord did not attend the hearing, I cancel the 1 Month Notice to End Tenancy For Cause, dated April 30, 2016.

I order the tenancy to continue until ended in accordance with the Act.

### Conclusion

The Tenants' application is successful. The 1 Month Notice to End Tenancy For Cause, dated April 30, 2016, issued by the Landlord is cancelled.

The tenancy will continue until ended in accordance with the Act.

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: July 11, 2016

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Residential Tenancy Branch