



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes CNC MT FF

### Introduction

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

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 66;
- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

### Issues

Should the tenant's request for more time to make an application to cancel the 1 Month Notice be granted? Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

### Background and Evidence

The tenancy began on April 22, 2015 with a monthly rent of \$1300.00 payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$650.00 and a pet deposit of \$200.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on June 13, 2016 the tenant was personally served with the 1 Month Notice to End Tenancy. The tenant acknowledged receiving the Notice on this date.

The tenant application to cancel the 1 Month Notice was filed on June 24, 2016. The tenant did not provide any evidence or reasons in support of the application to extend a time limit established under the Act. Rather, the tenant took the position that the application was filed within the time period established under the Act. The tenant stated that she only checked off the box requesting more time to file the application as she was advised to do so by an agent of the Residential Tenancy Branch in order to allow her to submit additional evidence.

### Analysis

Pursuant to section 66 of the Act, the director may extend a time limit established by this Act only in exceptional circumstances. The tenant did not provide any evidence or reasons in support of the application to extend a time limit established under the Act.

The tenant's request to extend a time limit to file an application is dismissed.

Pursuant to section 47(4) of the Act, the tenant may make a dispute application within ten days of receiving the 1 Month Notice. As the tenant was served the 1 Month Notice on June 13, 2016, the tenant's application should have been filed on or before June 23, 2016. The tenant's application was not filed until June 24, 2016. In accordance with section 47(5) of the Act, as the tenant failed to take this action within ten days, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the 1 Month Notice, July 31, 2016. The tenant has paid rent for the month of August 2016 which the landlord accepted for use and occupancy only and the landlord agreed to extend the effective date of the 1 Month Notice to August 31, 2016.

The tenant's application to cancel the 1 Month Notice is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord.

### Conclusion

I grant an Order of Possession to the landlord effective **1:00 p.m. on August 31, 2016**. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: August 04, 2016

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Residential Tenancy Branch