



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      Landlord:    OPC   O  
                         Tenant:        MT   CNC   O

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Landlord submitted an Application for Dispute Resolution to the Residential Tenancy Branch on July 22, 2016 (the “Landlord’s Application”).

The Landlord applied for the following relief pursuant to the *Act*: an order of possession for cause; and other unspecified relief.

The Tenant submitted an Application for Dispute Resolution to the Residential Tenancy Branch on July 22, 2016 (the “Tenant’s Application”).

The Tenant applied for the following relief pursuant to the *Act*: an order allowing more time to make an application to cancel a notice to end tenancy; an order cancelling a notice to end tenancy for cause; and other unspecified relief.

The Landlord attended the hearing on her own behalf and provided her solemn affirmation. The Tenant did not attend the hearing.

The Landlord provided oral testimony stating the Landlord’s Application and the Notice of a Dispute Resolution Hearing, dated July 26, 2016 (the “Notice of Hearing”) were served on the Tenant by registered mail as soon as the Notice of Hearing was received. I find the Tenant was duly served with the Landlord’s Application and the Notice of Hearing.

Further, the Landlord provided oral testimony stating that the evidence upon which she intended to rely was served on the Tenant in person at the same time as it was

submitted to the Residential Tenancy Branch. I find the Landlord's documentary evidence was duly served on the Tenants.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Tenant entitled to more time to make an application to cancel the 1 Month Notice?
3. Is the Tenant entitled to an order cancelling the 1 Month Notice?

### Background and Evidence

The Landlord submitted a copy of the 1 Month Notice with her documentary evidence. According to the Landlord, the 1 Month Notice was served in person by leaving a copy with A., the Tenant's son, on July 7, 2016. The Landlord testified that A. is in his 20s.

The Landlord testified that the Tenant continues to reside in the rental unit.

The Tenant did not attend the hearing.

### Analysis

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows:

Pursuant to section 47 of the *Act*, a tenant who receives a notice to end tenancy for cause and wishes to dispute it has 10 days to file an application for dispute resolution. Failing to do so leads to the conclusive presumption the tenant has accepted the tenancy ends on the effective date of the notice.

Section 88(e) of the *Act* permits a party to serve a notice to end tenancy "by leaving a copy at the person's residence with an adult who apparently resides with the person". The Landlord's unchallenged oral testimony was that the 1 Month Notice was served

on the Tenant's adult son, who resides in the rental unit, on July 7, 2016. I find the Tenant was duly served with the 1 Month Notice on July 7, 2016.

The effective date provided on the 1 Month Notice was August 15, 2016. However, by operation of section 53 of the *Act*, the effective date automatically corrects to August 31, 2016. I find the effective date of the 1 Month Notice was August 31, 2016.

The Tenant filed the Tenant's Application on July 22, 2016, more than 10 days after the 1 Month Notice was served on the Tenant. I find the Tenant is conclusively presumed to have accepted that the tenancy ended on August 31, 2016.

The Tenant continues to occupy the rental unit. Accordingly, the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

#### Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Tenant's Application is dismissed, without leave to reapply.

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 13, 2016

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Residential Tenancy Branch