



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT CNL 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 2 Month Notice to End Tenancy for Landlord's Use ("2 Month Notice") pursuant to section 66; cancellation of the landlord's 2 Month Notice pursuant to section 49; and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. Both parties confirmed receipt of the other's evidentiary submissions for this hearing.

### Preliminary Issue

The tenant applied for more time to make an application to cancel the landlord's 2 Month Notice to End Tenancy for Landlord's Use ("2 Month Notice") pursuant to section 66. The landlord SO testified, supported by documentary evidence including a proof of service document that the 2 Month Notice was issued on July 28, 2016. The tenant originally testified that she received the 2 Month Notice on August 17, 2016. Later in her testimony, she indicated that she received the 2 Month Notice in July 2016. The tenant applied to cancel the 2 Month Notice on August 19, 2016.

The tenant testified that she was in shock and didn't believe that the Notice to End Tenancy was legitimate. Section 66 of the *Act* provides that an arbitrator may extend a time limit in only exceptional circumstances. The tenant has indicated that she did not believe that the landlord wanted to end her tenancy; this does not provide exceptional circumstances to justify extending the 15 day time limit for the tenant to apply.

The tenant did not make an application pursuant to section 49(8) of the *Act* within fifteen days of receiving the 2 Month Notice to End Tenancy for Landlord's Use of Property. In accordance with section 49(9) of the *Act*, the tenant's failure to take this action within

fifteen days led to the end of her tenancy on September 30, 2016 and required her to vacate the rental premises by that date. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession pursuant to section 55(1).

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I note that the landlord has provided sufficient evidence to support the grounds to end tenancy: All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser intends to occupy the rental unit. Based on the testimony of the prior owner, the new/current owner and agents as well as the documentary evidence, the property has been sold and the current owner intends to occupy the entire home.

### Conclusion

I dismiss the tenant's application in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective two days after service of this Order on the tenant(s). 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: October 17, 2016

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Residential Tenancy Branch