



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            CNR, MT

### Introduction

This hearing was scheduled for 11:00 a.m. on this date, via teleconference call, to hear the tenant's application to cancel a 1 Month Notice to End Tenancy for Cause and more time to make the application. The landlord's agents appeared at the hearing but the tenant did not despite leaving the teleconference call open until 11:11 a.m.

Since the tenant failed to appear at the hearing and the landlord appeared and was prepared to respond to this application I dismissed the tenant's application without leave.

The landlord confirmed that the tenant continues to occupy the rental unit and requested an Order of Possession effective November 30, 2016.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The tenant filed to dispute a 1 Month Notice to End Tenancy for Cause issued on August 1, 2016 (the Notice) with a stated effective date of "Sept 31, 2016". The landlord submitted that the Notice was posted to the tenant's door on August 2, 2016. The tenant's application to cancel it was dismissed for the reason described above.

The Notice is in the approved form and provides for the names of the tenant and landlord, along with service addresses, an effective date, reasons for ending the tenancy and it is signed and dated by the resident manager of the building.

The landlord's agent stated that the landlord accepted payment for use and occupancy for the month of November 2016 and requested an Order of Possession effective November 30, 2016.

### Analysis

Section 55(1) of the Act provides that an Order of Possession must be provided to the landlord where:

- (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.

Upon review of the Notice to End Tenancy served upon the tenant I am satisfied that it meets the form and content requirements of section 52 of the Act. Although the effective date stated on the Notice is incorrect since there are not 31 days in September; however, section 53 provides that an incorrect effective date automatically changes to comply with the Act.

In light of the above, and having dismissed the tenant's application to cancel the Notice, I find the landlord entitled to an Order of Possession. Therefore, I provide the landlord with an Order of Possession effective November 30, 2016 as requested.

#### Conclusion

The tenant's application to cancel a 1 Month Notice to End Tenancy has been dismissed. The landlord is provided an Order of Possession effective November 30, 2016 as requested.

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: November 02, 2016

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Residential Tenancy Branch