



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNR, FF

### **Introduction:**

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel the 10 day Notice to End Tenancy dated January 2, 2017.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on January 2, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on January 6, 2017. With respect to each of the applicant's claims I find as follows:

### **Issues to be Decided:**

The issue to be decided is whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated January 2, 2017?

### **Background and Evidence:**

The tenancy began on November 1, 2014. The present rent is \$837 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$400 at the start of the tenancy.

The tenants owe the landlord the sum of \$437 for January 2017. The tenant testified she is able and prepared to pay that sum today.

The tenant testified she is facing some health issues and she requested an extension to allow her an opportunity to find alternative accommodation. The landlord stated he was

not prepared to reinstate the tenancy but was prepared to grant an extension on a “use and occupation basis.” .

Analysis:

I dismissed the Tenants’ application to cancel the 10 day Notice to End Tenancy. It was on the approved government form. There was outstanding rent at the time the Notice was served and there continues to be outstanding rent. I order that the tenancy shall end on the date set out in the Notice.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant’s application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Settlement:

The Tenant requested an extension of time to move. The landlord stated he was not prepared to reinstate the tenancy but was prepared to grant the tenant an extension of time to move. The parties reached a settlement and they asked that I record the settlement pursuant to section 62(3) as follows:

- a. The landlord agrees to allow the tenant to remain in the rental unit on a “use and occupation” basis until April 30, 2017 at the latest provided
  - The tenants shall pay the arrears in the sum of \$437 by January 30, 2017.
  - The tenants pay the rent for February 2017, March 2017 and April 2017 when due on the first day of each month.
  - The tenants shall vacate the rental unit by April 30, 2017 at the latest and there shall be no further extensions after that date.
- b. If the Tenants fail to make the payments as provided above the landlord shall be at liberty to enforce the Order of Possession forthwith.
- c. Should the Tenants find alternative accommodation at an earlier date they retain the right to end the tenancy on providing the landlord with a clear month notice.
- d. This extension is not a reinstatement of the tenancy and the parties agree the landlord can enforce this Order for Possession on April 30, 2017 should the tenants fail to vacate the rental unit as agreed.

Conclusion:

In summary I dismissed the tenants' application to cancel the 10 day Notice to End Tenancy and I granted the landlord an Order of Possession on 2 days notice. I recorded the parties agreement for an extension of time to stay in the rental unit.

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: January 30, 2017

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Residential Tenancy Branch