



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      CNC OLC

### Introduction

- This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 47, and an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing, which lasted approximately 24 minutes in order to allow both parties to fully present their submissions regarding an adjournment requested by the tenant.

### Preliminary Issue - Adjournment of Hearing

At the outset of the hearing, the tenant requested an adjournment. She stated that she was in the hospital at a convalescent care building, and has been there since December 1, 2016. The tenant was calling from the hospital for this hearing. The tenant also provided a copy of a medical note, dated December 23, 2016, from a social worker at that hospital confirming that she remains in the hospital after sustaining injuries after a fall. The letter confirms that the tenant was admitted to the hospital on December 1, 2016 at 1:00 a.m.

The letter also states that the tenant was not able to serve the hearing package to the landlord until December 23, 2016, when it was sent by registered mail as she has been in the hospital. The Application for Dispute Resolution was filed on November 28, 2016 disputing the landlord's 1 Month Notice to End Tenancy ('1 Month Notice) dated November 16, 2016 with an effective date of December 17, 2016. It is not known how long the tenant will be in the hospital for, but she anticipated that she would be discharged by February.

The landlord opposed the tenant's adjournment request. She submitted that the tenant suffers from a chronic medial issue, which puts the landlord's property at risk if she remains as a tenant. The landlord submitted that the tenant is not mobile, and should

be in a care facility instead of the rental unit. She is concerned after an incident in November when firefighters had to enter the unit through a window. She testified that the tenant is using the rental unit as a care facility. The landlord indicated that she would be leaving on January 28, 2016 for vacation, and wanted to proceed with the hearing.

During the hearing, I advised the parties that I was adjourning the hearing. I granted the adjournment after taking into consideration the criteria established in Rule 7.9 of the *Rules*, which includes the following provisions:

*Without restricting the authority of the arbitrator to consider the other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:*

- *the oral or written submissions of the parties;*
- *the likelihood of the adjournment resulting in a resolution;*
- *the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and*
- *whether the adjournment is required to provide a fair opportunity for a party to be heard; and*
- *the possible prejudice to each party.*

I find that an adjournment of this matter would provide a fair opportunity for the tenant to prepare for, and attend the hearing. I find that the tenant has the right to attend the hearing and provide testimony about her application, if she chooses to do so. The tenant provided documentary evidence to show that she is seriously ill and physically unable to attend the hearing at this time.

I also note that there have been no recent incidents since the 1 Month Notice was issued to the tenant, and I am not satisfied that the landlord's property would be at risk if I granted this adjournment. However, as the application does pertain to a 1 Month Notice to End Tenancy, I advised both parties that I would grant the tenant's request for an adjournment, but would minimize any potential prejudice to the landlord by finding the earliest date available for all parties.

I advised the parties that I was seized of this matter and that the hearing would be reconvened as a conference call hearing on February 23, 2017 at 9:30 a.m. Both confirmed that they were available during the above date and time to attend the reconvened hearing. After the hearing I found that the above agreed to hearing date conflicted with my schedule, and I have rescheduled the conference call hearing

to **February 16, 2017 at 9:30 a.m.** A copy of the Notice of Reconvened hearing with the calling instructions is included with this decision.

Directions regarding Service of Documents

Both parties must submit and re-serve evidence prior to the next hearing date, in accordance with the following directions:

1. The tenant is required to serve the landlord **AND** the RTB with any evidence she intends to rely upon at the reconvened hearing, in accordance with **section 88** of the *Act*, **by February 1, 2017.**
2. The landlord is required to re-serve the tenants (**not the RTB**) with a complete copy of her entire written evidence package that was sent to the RTB, if she intends to rely upon this evidence at the reconvened hearing, in accordance with section 88 of the *Act*, **by February 8, 2017**

Conclusion

I adjourn the tenant's Application to be heard at the reconvened hearing. I order that the proceeding be reconvened in accordance with section 74 of the *Act*. **Notices of Reconvened Hearing are enclosed with this interim decision.**

For more information see our website at: [gov.bc.ca/landlordtenant](http://gov.bc.ca/landlordtenant). If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

**Lower Mainland:** 604-660-1020

**Victoria:** 250-387-1602

**Elsewhere in BC:** 1-800-665-8779

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 10, 2017

---

Residential Tenancy Branch