



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants to cancel a 1 Month Notice to End Tenancy for Cause (the "Notice"), issued on February 1, 2017.

Both parties appeared.

### Preliminary and procedural matter

The first issue I must determine is whether the tenants filed their application within the time frame permitted by the Act.

In this case the tenants acknowledged they received the Notice of February 3, 2017.

Under section 47(4) of the Act, a tenant may dispute a notice by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

Since the tenants received the Notice on February 3, 2017, I find the tenants had until February 13, 2017, to file their application for dispute resolution. I find the tenants did not make their application within the time frame permitted under the Act as their application was filed on February 14, 2017.

Under section 47(5) of the Act, if a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with section 47(4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

In this matter, the tenants did not make an application to be allowed more time to make the application and prove there was an exceptional circumstance. The tenant stated that they did not file their application within the time frame because there was a weekend which did not give them sufficient time. However, I note the last day to file

their application was a Monday, a day Service BC and the Residential Tenancy Branch were open for business.

In light of the above, I find the tenants' application must be dismissed. As the Notice is in the correct form, I find the landlord is entitled to an order of possession. However, the effective date in the Notice is earlier than the Act allows that date automatically correct to the earliest date permitted under the Act pursuant to section 53 of the Act.

Therefore, I find the tenancy legally ends on March 31, 2017. The landlord is granted an order of possession pursuant to section 55 of the Act. This order must be served on the tenants and may be filed in the Supreme Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

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: March 14, 2017

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Residential Tenancy Branch