



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      CNC

### **Introduction**

A hearing was convened based on the tenants' application pursuant to s. 47(4) of the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause dated March 1, 2017 (the "1 Month Notice").

Only the landlord attended the hearing. The landlord provided affirmed testimony.

### **Issues to be Decided**

Are the tenants entitled to an order cancelling the 1 Month Notice?

### **Background and Evidence**

A copy of the tenancy agreement was in evidence, and the landlord confirmed its terms. This tenancy began on November 1, 2016 for a term expiring October 31, 2017. Monthly rent of \$4,750.00 is due on the first of each month. A security deposit of \$2,375.00 was paid at the beginning of the tenancy.

The landlord testified that he served the tenants personally with the 1 Month Notice on March 1, 2017. The tenants' application indicates that they received the 1 Month Notice on March 1, 2017. The 1 Month Notice has an effective date of April 1, 2017. The tenants applied to dispute the 1 Month Notice on March 13, 2017.

### **Analysis**

Section 47(1) of the Act provides that a landlord may end a tenancy for "cause" and s. 47(4) allows a tenant to dispute a notice to end tenancy for cause within 10 days of receipt of the notice. The tenants' application was not filed until March 13, 2017. I therefore find that the tenants filed their application to dispute the 1 Month Notice after the expiration of the 10 day time limit.

In accordance with section 47(5) of the Act, the failure of the tenants to file their application within 10 days of March 1, 2017 led to the end of this tenancy on April 30, 2017, the corrected effective date of the 1 Month Notice. The tenants and anyone on the premises are required to vacate the premises by that date, and the landlord is entitled to an order of possession pursuant to s. 55(3) of the Act.

The tenants have also failed to attend at the hearing of their own application, and have therefore failed to offer any reason for cancellation of the 1 Month Notice. Accordingly, the tenants' application would have been dismissed and the 1 Month Notice would have been upheld even if the tenants had filed their application within the 10 day time limit. In those circumstances I would have granted the landlord an order of possession pursuant to s. 55(1) of the Act, as I find that the landlord's 10 Day Notice complies with section 52 of the Act.

### **Conclusion**

The landlord's 1 Month Notice is upheld.

I grant an order of possession to the landlord effective at **1:00 p.m. on April 30, 2017**. Should the tenants or anyone on the premises 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 s. 9.1(1) of the Act. Pursuant to s. 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 18, 2017

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Residential Tenancy Branch