



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNC, RR

### Introduction

On March 24, 2017, the Tenant submitted an Application for Dispute Resolution asking for more time to make an application to cancel a notice to end tenancy, and to cancel a 1 Month Notice to End Tenancy for Cause (“the 1 Month Notice”).

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

The Tenant’s application included a request for a reduction in rent for repairs, services or facilities that were agreed upon but not provided. The primary matter to resolve is whether or not the tenancy is ending due to the issuance of a 1 Month Notice To End Tenancy For Cause. The Tenant’s request for a rent reduction is dismissed with the right to reapply at a future time.

The Landlord corrected the spelling of his name within the Tenant’s application. The Application is amended to the correct spelling that was provided.

### Issue to be Decided

- Are there exceptional circumstances present, to allow the Tenant more time to dispute the 1 Month Notice To End Tenancy For Cause?

### Background and Evidence

The Landlord and Tenant testified that the tenancy began in October 2014. Rent in the amount of \$595.00 is to be paid on the first day of each month. The Tenant paid a security deposit in the amount of \$297.50 to the Landlord.

The Landlord testified that he served the Tenant with a 1 Month Notice in person on February 27, 2017. The effective date of the 1 Month Notice is March 31, 2017.

The reasons for ending the Tenancy provided by the Landlord within the 1 Month Notice are:

*Tenant has allowed an unreasonable number of occupants in the unit /site  
Tenant or a person permitted on the property by the Tenant has:*

- *Significantly interfered with or unreasonably disturbed another occupant or the Landlord*
- *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*
- *Put the Landlord's property at significant risk*

*Tenant has engaged in illegal activity that has, or is likely to:*

- *Damage the Landlord's property*
- *Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the Landlord*

The 1 Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

If a Tenant does not file an Application within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit or vacate the site by the date set out on the effective date of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

The Tenant testified that he received the 1 Month Notice sometime around March 5, 2017. He testified that he is sure he received the Notice prior to his mother's birthday on March 7, 2017.

In response, the Landlord produced a witness J.B. who provided affirmed testimony that she was with the Landlord on February 27, 2017, when the Tenant was served the 1 Month Notice in person at the rental unit.

The Tenant was asked for an explanation on why his application to dispute the 1 Month Notice is late. The Tenant testified that he was working and he didn't know the time limit. The Tenant testified that he thought the Landlord would withdraw the Notice.

The Landlord responded that he is not withdrawing the 1 Month Notice and requested an immediate order of possession. He submitted that the police have been to the rental unit 50 times recently.

The Landlord testified that he has not reinstated the tenancy by accepting rent for May 2017. He testified that the rent he automatically received from the Ministry is being held in trust.

### Analysis

Section 66 of the Act states that the director may extend a time limit established by this Act only in exceptional circumstances.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant received the 1 Month Notice on February 27, 2017. The Tenant's testimony on when he received the Notice was not clear. I prefer the Landlord's testimony that was corroborated by witness testimony.

The Tenant had up until March 9, 2017, to dispute the 1 Month Notice. The Tenant applied to dispute the 1 Month Notice on March 24, 2017. Even if I accepted the Tenant's testimony on when the Notice was received, the Tenant's application to dispute the Notice would be late.

I have considered the Tenants explanation for why the he made a late application. I do not find the explanation that he was working and did not know the time limit to be an exceptional circumstance. The 1 Month Notice provides clear information on the time limits and the conclusive presumption that the tenancy ends if the Notice is not disputed within 10 days.

After considering the evidence before me, I dismiss the Tenant's request for more time to make an application to dispute the 1 Month Notice. The Tenant's Application to cancel the 1 Month Notice is dismissed.

Under section 55 of the Act, when a Tenants application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the 1 Month Notice complies with the requirements for form and content. The Landlord is entitled to an order of possession effective two (2) days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

### Conclusion

I dismiss the Tenant's request for more time to make an application to dispute the 1 Month Notice. The Tenant's Application to cancel the 1 Month Notice is dismissed.

I grant the Landlord an order of possession effective two (2) days after service on the Tenant. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: May 01, 2017

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Residential Tenancy Branch