



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT   CNR   O

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, dated May 26, 2017 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order allowing more time to make an application for dispute resolution;
- an order cancel a notice to end tenancy for unpaid rent or utilities; and
- other unspecified relief.

The Tenant attended the hearing on her own behalf. The Landlord V.G.T. attended the hearing on behalf of both Landlords. Both parties in attendance provided a solemn affirmation.

The Tenant testified the Application package was served on both Landlords by registered mail on June 1, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Landlords are deemed to have received the Application package on June 6, 2017. The Landlords did not submit any documentary evidence in response to the Tenant's Application.

No further issues were raised about service of the Application package. The parties were provided with the opportunity to present their evidence orally and in written and documentary form, and make submissions. 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 Issue – Timing of the Application

The Tenant applied for more time to make an application for dispute resolution. She confirmed during the hearing that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 9, 2017 (the “10 Day Notice”), was received on May 10, 2017. However, the Tenant did not submit the Application to Service BC until May 23, 2017, 13 days after receipt of the 10 Day Notice.

Section 46(4) of the *Act* requires a tenant to either pay rent in full or dispute the notice to end tenancy within five days after receipt of a notice to end tenancy for unpaid rent. Pursuant to section 46(5) of the *Act*, failure to do so results in the conclusive presumption that the tenant has accepted the end of the tenancy.

In this case, there is no dispute that the Tenant filed the Application late. Having received the 10 Day Notice on May 10, 2017, the Tenant had until May 15, 2017 to make the Application. However, the Tenant testified that her health prevented her from making the Application in time. In support, she submitted a medical record, dated May 18, 2017. The record describes several health concerns. She also testified she has mental health issues that prevented her from submitting the Application on time. However, I find there is insufficient evidence before me to conclude that the Tenant’s attendance at her doctor on May 18, 2017, prevented her from making the Application on time. I also note the Tenant testified during the hearing that rent has not been paid in full since May 1, 2017. Rather, she has paid only her portion of rent as divided between the occupants of the rental unit.

In light of the above, I find the Tenant is not entitled to more time to make her Application. As a result, and pursuant to section 46(5) of the *Act*, the Tenant is conclusively presumed to have accepted the end of the tenancy. The Tenant’s Application is dismissed.

When a tenant’s application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. As I have dismissed the Application and determined the 10 Day Notice complied with section 52 of the *Act*, I grant the Landlords an order of possession, which will be effective two (2) days after service on the Tenant.

Conclusion

The Tenant's Application is dismissed and the 10 Day Notice is upheld.

By operation of section 55 of the *Act*, I grant the Landlords an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 19, 2017

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Residential Tenancy Branch