



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      CNC FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing. The landlord acknowledged service of the tenant's application but raised an issue with respect to the timeliness of the application. The parties were provided with a full opportunity to make submissions on the timeliness of the application.

### Issues

Is the tenant's application within the permitted timelines under the Act? If yes, should the landlord's 1 Month Notice be cancelled? Is the landlord entitled to an order of possession?

Is the tenant entitled to recover the filing fee?

### Background and Evidence

The tenancy began over 10 years ago and the current monthly rent is \$680.00 payable on the 1<sup>st</sup> day of each month.

The landlord testified that on May 31, 2017 the tenant was served with the 1 Month Notice by posting a copy to the door of the rental premises. The tenant acknowledged receiving the Notice on either June 1<sup>st</sup> or 2<sup>nd</sup>.

The tenant's application to cancel the 1 Month Notice was filed on June 21, 2017. The tenant did not make an application to request an extension to the time limit established under the Act to make such an application. In tenant testified during the hearing that he

was trying to enter into a mutual agreement with the landlord after receiving the 1 Month Notice but was unsuccessful which is why his application was late.

### Analysis

Pursuant to section 66 of the Act, the director may extend a time limit established by this Act only in exceptional circumstances. The tenant did not make an application to request an extension of the time limit. In either event, I find the reason provided by the tenant is not an exceptional circumstance that would warrant an extension.

Pursuant to section 47(4) of the Act, the tenant may make a dispute application within ten days of receiving the 1 Month Notice. As the tenant received the 1 Month Notice on June 2, 2017, the tenant's application should have been filed on or before June 12, 2017. The tenant's application was not filed until June 21, 2017. In accordance with section 47(5) of the Act, as the tenant failed to take this action within ten days, the tenant is conclusively presumed to have accepted the tenancy ends on the "corrected" effective date of the 1 Month Notice, July 31, 2017.

The tenant's application to cancel the 1 Month Notice is dismissed. I find that the 1 Month Notice complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 22, 2017

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Residential Tenancy Branch