



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER NATIVE HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNR, OLC, O

Introduction

This telephone conference hearing convened as a result of a Tenant's Application for Dispute Resolution filed August 15, 2017 wherein the Tenant sought to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on July 13, 2017 (the "10 Day Notice"), an Order that the Landlord comply with the *Act, Regulation*, or tenancy agreement and other unspecified relief.

The hearing was scheduled for 10:30 a.m. on this date. Only the Tenant and her Advocate S.W. called into the hearing.

S.W. testified that the Landlord was served with the Tenant's application for Dispute Resolution by registered mail sent on August 3, 2017. A copy of the tracking number for the registered mail package is provided for on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline 12—Service Provisions provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to section 90 of the *Residential Tenancy Act* documents served this way are deemed served five days later; accordingly, I find the Landlord was duly served as of August 8, 2017 and I proceeded with the hearing in their absence.

Residential Tenancy Branch Rules of Procedure provides that when a Tenant applies to cancel a notice to end tenancy the Landlord bears the burden of proving the reasons cited on the notice. **As the Landlord failed to attend the hearing I find the 10 Day Notice should be cancelled. The tenancy shall continue until ended in accordance with the Act.**

S.W. also advised that the Landlord's representative, M.G., withdrew the 10 Day Notice by an email sent to the Advocate dated August 29, 2017; he confirmed that this email was a follow up to a conversation he had with M.G. the day prior wherein she confirmed the Landlord wished to withdraw the 10 Day Notice. During the hearing I requested that S.W. fax a copy of the email to the Branch as well as a copy of the 10 Day Notice for my review. I confirm that shortly after the teleconference hearing concluded, I received the requested copy of the email which confirmed the Landlord's representative, M.G., cancelled the 10 Day Notice.

The email also references a "60-day Notice" which, based on other information contained in the email, is presumably a 2 Month Notice to End Tenancy issued pursuant to section 49.1 of the *Act*. Notably the validity of the 2 Month Notice was not before me. The Tenant is cautioned that she must adhere to the strict timelines contained in section 49.1(5) of the *Act*, failing which her tenancy will end based on the 2 Month Notice.

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: September 6, 2017

Residential Tenancy Branch