



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SOUTH OKANAGAN SIMILKAMEEN BRAIN INJURY SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

CNQ FF

### Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for not qualifying for subsidized housing and to recover the filing fee for this proceeding.

At the start of the conference call it was noted that the Tenant's application did not meet the time requirements of the Act to dispute a Notice to End Tenancy. The 2 Month Notice to End Tenancy is dated April 28, 2017. The Tenant said she received the 2 Month Notice to End Tenancy on April 28, 2017 in person. Section 49.1 of the Act as well as paragraph 4 on the 2 Month Notice to End Tenancy says a tenant has 15 days from receiving a 2 Month Notice to End Tenancy to make an application to dispute the Notice. In this case the application should have been made by May 13, 2017. The Tenant filed her application to dispute the Notice on July 14, 2017. This is 62 days after the filing dead line. On page two of the Notice to End Tenancy it states that if the tenant does not filing within the 15 day time limit the tenant is presumed to have accepted the tenancy has ended and the tenant has to move out on the effective vacancy date on the Notice. The effective vacancy date on the Notice was June 30, 2017 but the Landlord extended this date for one month in a letter to the Tenant dated July 5, 2017.

Further page two of the Notice says the Arbitrator can extend the time for a tenant to make the application if there is proof of a serious and compelling reason for not filing the application on time. The Tenant said she has health issues and her family has health issues that have created stress in her life so she did not understand the rules and she did not know she had to file her application in 15 days. The Landlord said she advised the Tenant what the 2 Month Notice to End Tenancy was and the Landlord gave the Tenant the names of two agencies that could assist her in understanding the Notice to End Tenancy and what her options were. The Tenant said she did speak to the Landlord about the Notice to End Tenancy, but she was too stressed to contact an advocate at first. The Tenant said she finally did contact an advocate and the advocate wrote the Landlord a letter dated July 4, 2017 stating he was helping the Tenant with the situation. The Tenant made her application 10 days after the advocate's letter was sent to the Landlord.

The Tenant said she is a single mother with 4 children and she did not understand the rules and process that were required when she received the 2 Month Notice to End Tenancy. The Tenant asked to have more time to make the application to dispute the 2 Month Notice to End Tenancy.

The Tenant was advised about agencies and advocates when the Landlord served the 2 Month Notice to End Tenancy to the Tenant on April 28, 2017. The Tenant used an advocate on July 4, 2017 and the Tenant still waited 10 days before filing her application. I find the Tenant's reasons of not understanding her obligations when she received the 2 Month Notice to End Tenancy and her testimony of being stressed which resulted in late filing of the application do not meet the level of seriousness and are not a compelling enough reasons to accept a late filing application. Consequently I dismiss the Tenant's request for more time to filing the application. I find the Tenant did not file her application within the time limits to dispute the 2 Month Notice to End Tenancy for not qualifying for subsidized housing. Consequently, I dismiss the Tenant's application without leave to reapply.

The Notice to End Tenancy for not qualifying for subsidized housing dated April 28, 2017 is valid and in full effect and I grant the Landlord an Order of Possession for October 31, 2017 as the Landlord requested.

### Conclusion

The Tenant's application is dismissed without leave to reapply.

An Order of Possession effective 1:00 p.m. October 31, 2017 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in 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 *Manufactured Home Park Tenancy Act*.

Dated: September 13, 2017

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Residential Tenancy Branch