



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>	Landlord:	OPC
	Tenant:	CNC

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application for Dispute Resolution is dated August 22, 2017 (the “Landlord’s Application”). The Landlord applied for an order of possession, pursuant to the *Act*.

The Tenant’s Application for Dispute Resolution was received at the Residential Tenancy Branch on August 25, 2017 (the “Tenant’s Application”). The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause, dated July 21, 2017 (the “One Month Notice”), pursuant to the *Act*.

The Landlord was represented at the hearing by J.P. and M.G., agents. The Tenant attended the hearing in person and was assisted by her advocate, D.D. J.P., M.G., and the Tenant each provided an affirmation at the beginning of the hearing.

Both parties served their Application packages and documentary evidence by registered mail. No issues were raised with respect to service or receipt of these documents. Pursuant to section 71 of the *Act*, I find these documents were sufficiently served for the purposes of the *Act*.

The parties were provided the opportunity to present evidence orally and in written and documentary form, and to 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.

It was noted during the hearing that the Tenant’s Application confirmed receipt of the One Month Notice on July 21, 2017. However, D.D. suggested this may have been an error on the part of the individual assisting the Tenant to prepare the Tenant’s Application. In support of this submission, M.G. confirmed the One Month Notice was served on the Tenant on July 24, 2017,

by posting a copy to the door of the Tenant's rental unit. Based on these submissions, I find the One Month Notice was served on the Tenant by posting a copy to the door of the Tenant's rental unit on July 24, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. Accordingly, I find the Tenant is deemed to have received the One Month Notice on July 27, 2017.

Pursuant to section 47(4) of the *Act*, a Tenant has 10 days after receipt of a notice to end tenancy for cause to dispute it by filing an application for dispute resolution. Section 47(5) of the *Act* confirms that failure to do so results in the conclusive presumption the tenant has accepted the tenancy ends on the effective date of the notice to end tenancy.

In this case, the Tenant is deemed to have received the One Month Notice on July 27, 2017. However, the Tenant's Application to dispute the One Month Notice was not received at the Residential Tenancy Branch until August 25, 2017 – 29 days later. Accordingly, I find 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. Having reviewed the One Month Notice, I find it complied with section 52 of the *Act*. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

As the Landlord has been granted an order of possession, it is not necessary for me to consider the Landlord's Application further. The Landlord's Application is dismissed.

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: November 9, 2017

Residential Tenancy Branch