



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Coast Mental Health (1974)  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing, held by teleconference on November 23, 2017, dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the Notice).

Both sides were represented at the hearing. All parties provided affirmed testimony and were given a full opportunity to be heard, to present evidence and to make submissions.

The Landlord served the Tenant with 32 pages of evidence in person on November 15, 2017. The Tenant acknowledged receipt of this package.

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.

### Issue(s) to be Decided

- Did the Tenant apply on time to dispute the Notice?
- Is the tenant entitled to have the landlord's 1-Month Notice to End Tenancy for Cause cancelled?
  - If not, is the landlord entitled to an Order of Possession?

### Background and Evidence

The Landlord testified that the Notice was posted to the door of the rental unit on August 18, 2017. Service of this document was witnessed by a third party. The Tenant acknowledged receipt of the Notice on this day. The Agent listed the effective date of the Notice as September 30, 2017.

The Notice indicates that the reason for ending the tenancy is because the Tenant or a person permitted on the property by the Tenant has:

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The Tenant applied to dispute the Notice on September 15, 2017. The Tenant did not apply for more time to make an application to dispute this Notice.

### Analysis

Based on the testimony and documentary evidence, and on a balance of probabilities, I find:

After reviewing the Notice, I am satisfied that it complies with section 52 of the *Act* [form and content of notice to end tenancy]. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy, under section 47(5) of the *Act*.

In this case, the Tenant acknowledged receipt of the Notice on August 18, 2017. The tenant had 10 days, until August 28, 2017, to dispute the Notice, but he did not do so until September 15, 2017. Further, the Tenant did not apply for more time to make an application to dispute this Notice.

Given that the Tenant applied well beyond the 10 days permitted under the *Act*, and pursuant to section 47(5) of the *Act*, I find the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the Notice, September 30, 2017.

The Landlord is entitled to an order of possession, which will be effective **two days after service** on the tenant.

#### Conclusion

The Tenant did not apply on time to dispute the Notice and his application is dismissed.

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 23, 2017

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Residential Tenancy Branch