



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

On May 8, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") seeking to cancel a 1 Month Notice to End Tenancy for Cause.

The matter was set for a conference call hearing at 9:00 a.m. on this date. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and 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.

### Preliminary and Procedural Matters

The Tenant's advocate acknowledged that the Tenant failed to serve the Notice of Dispute Resolution proceeding documents and a copy of the Tenant's documentary evidence to the Landlord prior to the hearing. The Landlord became aware of the hearing when she called the Residential Tenancy Branch.

Since the Tenant never served a copy of her evidence to the Landlord, it would be unfair to consider the documents in this hearing. The Tenants documentary evidence is excluded from the hearing.

Issue(s) to be Decided

- Did the Tenant apply to dispute the notice within the required timeframe?
- Has the Tenant breached the tenancy agreement and assigned or sublet the rental unit without the Landlord's written consent?

Background and Evidence

The parties testified that the tenancy began on September 1, 2011, on a month to month basis. Subsidized rent in the amount of \$1,067.00 is to be paid to the Landlord by the first day of each month. The Tenants paid a security deposit of \$470.00 to the Landlord. The tenancy agreement states that income and occupancy verification occurs a minimum of once per year or when there is a change in the income of the Tennats or the composition of the household. The Landlord provided a copy of the tenancy agreement.

The tenancy agreement provides the names of the authorized occupants and states that the Tenant will only allow the named occupants to reside in the rental unit. Proposed occupants are required to demonstrate that they meet the eligibility requirements.

The Landlord submitted that one of the Tenants, Ms. L.R. moved out of the rental unit on February 28, 2017.

The Landlord wrote to the remaining Tenant, Ms. D.R. in July 2017, and asked her to provide updated information on the household. The Landlord asked the Tenant to complete an enclosed application so a determination of eligibility for housing could be made. A copy of the letter was provided by the Landlord.

On August 29, 2017, the Landlord sent the Tenant another letter requesting a response. A copy of the letter was provided by the Landlord.

On November 1, 2017, the Landlord wrote the Tenant another letter requesting information regarding changes to the occupants in the home that the Tenant had promised but failed to provide. A copy of the letter was provided by the Landlord.

On January 3, 2018, the Landlord sent the Tenant a breach letter stating the Tenant had until January 24, 2018, to provide the information about the unregistered occupant living in the unit or the Landlord will issue a 1 Month Notice To End Tenancy. A copy of the letter was provided by the Landlord.

On February 6, 2018, the Landlord sent a letter to the Tenant after speaking to the Tenant on the telephone. The Landlord provided a tenancy application form and asked for it to be completed and returned with all the required financial information no later than February 15<sup>th</sup>. The Letter states that the request for the information will not be extended, and a 1 Month Notice To End Tenancy For Cause will be issued if the information is not received by February 15<sup>th</sup>. A copy of the letter was provided by the Landlord.

The Landlord received the tenancy application on February 20, 2018.

On April 13, 2018, the Landlord sent a letter to the Tenant stating that the information she provided was not sufficient to verify the eligibility of the unregistered occupant. The letter indicates the Tenant is being issued a 1 Month Notice To End Tenancy For Cause.

The Landlord testified that the Tenant was informed that she could not move someone into the unit without permission from the Landlord. She testified that the unit is a modified unit which is wheelchair accessible and occupants have to qualify and provide income verification. She testified that the Tenant provided incomplete information including a hand written employment letter.

The Landlord issued a 1 Month Notice To End Tenancy For Cause dated April 13, 2018 ("the 1 Month Notice"). The Landlord posted the 1 Month Notice on the Tenant's door. The 1 Month Notice contains an effective date of May 31, 2018.

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. If a Tenant does not file an Application within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of the Notice.

The 1 Month Notice contains the following reasons for ending the tenancy:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- Tenant has assigned or sublet the rental unit/ site without the Landlord's written consent.

The Tenant testified that she received the 1 Month Notice on April 13, 2018. The Tenant applied to dispute the 1 Month Notice on May 8, 2018. The Tenant applied 15

days late. The Tenant's Application does not contain a request for more time to make application to dispute a notice to end tenancy.

The Tenant testified that she did not understand what to do with the 1 Month Notice.

The Tenant's advocate testified that she did not tell him about the 1 Month Notice until May 1, 2018. He submitted that the Tenant did not understand her options.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I dismiss the Tenant's Application to cancel the 1 Month Notice dated April 13, 2018. The Tenant did not make apply for dispute resolution to dispute the 1 Month Notice within 10 days of receiving the Notice. The Tenant applied 15 days late. The Tenant did not apply for more time to dispute a notice to end tenancy. Even if the Tenant had applied for more time, I find that the reason the Tenant did not dispute the notice is not an exceptional circumstance where I would grant more time. The Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Under section 55 of the Act, when a Tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the 1 Month Notice complies with the requirements regarding form and content.

The Landlord testified that she wants to give the Tenant more time to find a place to move, and she informed her that she could submit an application for a transfer to another unit. The Landlord requested an order of possession for the rental unit to be effective on September 30, 2018, at 1:00 pm.

I find that the Landlord is entitled to an order of possession effective no later than 1:00 pm on September 30, 2018, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Tenant's late application to cancel the 1 Month Notice To End Tenancy For Cause dated April 13, 2018, is dismissed.

I grant the Landlord an order of possession effective September 30, 2018. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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: July 06, 2018

---

Residential Tenancy Branch