



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OPQ CNQ FF MT

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

#### Landlord:

- an order of possession because tenant ceases to qualify for rental unit pursuant to section 49.1
- authorization to recover the filing fee for this application pursuant to section 72.

#### Tenant:

- more time to make an application to cancel the landlord’s 2 Month Notice to End Tenancy (the 2 Month Notice) pursuant to section 66;
- cancellation of the landlord’s 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to service of the respective applications although the landlord testified that the tenant’s application was received after the August 23, 2018 hearing by which the tenant’s application was adjourned to be heard concurrently with the landlord’s application.

During the hearing, the landlord advised she was withdrawing the claim to recover the filing fee.

### Issues

Should the tenant’s request for more time to make an application to cancel the 2 Month Notice be granted? Should the landlord’s 2 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

### Background and Evidence

The tenancy for this subsidized rental unit originally began on February 1, 2015 but then the parties subsequently entered into a new month to month tenancy which began on July 1, 2015. The subsidized monthly rent of \$474.00 is payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$439.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on May 1, 2018 the 2 Month Notice was sent to the tenant by registered mail.

The tenant acknowledged receipt of the 2 Month Notice on May 3, 2018.

The tenant's application to cancel the 2 Month Notice was filed on July 17, 2018. The tenant is requesting an extension to the time limit for filing this application on the grounds that she was not aware of the process.

### Analysis

Pursuant to section 66 of the Act, the director may extend a time limit established by this Act only in exceptional circumstances. The tenant's submission that she was not aware of the process is not an exceptional circumstance.

The tenant's request to extend a time limit to file an application is dismissed.

I am satisfied that the tenant was served with the 2 Month Notice on May 3, 2018. I find the 2 Month Notice complies with the form and content requirements of section 52 of the Act.

Pursuant to section 49.1 of the Act, the tenant may make a dispute application within fifteen days of receiving the 2 Month Notice. As the tenant received the 2 Month Notice on May 3, 2018, the tenant's application should have been filed on or before May 18, 2018. The tenant's application was not filed until July 17, 2018. In accordance with section 49.1(6) of the Act, as the tenant failed to make this application within fifteen days, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the 2 Month Notice, July 31, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of 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 *Residential Tenancy Act*.

Dated: September 27, 2018

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Residential Tenancy Branch