



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC LA LRE FF

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on November 14, 2018 (the "Application"). The Tenants applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a One Month Notice to End Tenancy for Cause, dated November 1, 2018 (the "One Month Notice")
- an order authorizing the Tenants to change the locks to the rental unit;
- an order setting or suspending conditions on the Landlord's right to enter the rental unit; and
- an order granting recovery of the filing fee.

The Tenants attended the hearing. The Landlord attended the hearing and was accompanied by C.H., an agent. All in attendance provided a solemn affirmation.

During the hearing, the issue of the timing of the Tenants' Application arose. It was noted that section 47(4) of the *Act* provides that a tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute the notice. Further, section 47(5) of the *Act* confirms that failure to dispute the notice in the required time period results in the conclusive presumption the tenant has accepted the tenancy ends on the effective date of the notice.

In this case, the parties agreed the One Month Notice was served on and received by the Tenants on November 1, 2018. However, the Tenants did not dispute the One Month Notice until November 14, 2018, 13 days later. Accordingly, I find the Tenants were out of time to dispute the One Month Notice and are conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice.

With respect to the effective date of the One Month Notice, section 47(2) of the *Act* confirms an effective date may not be earlier than one month after the date the notice is received, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement. Section 53 of the *Act* confirms that incorrect effective dates are automatically changed. In this case, the effective date on the One Month Notice was incorrectly stated to be December 1, 2018. Pursuant to section 47(2) of the *Act*, the effective date of the One Month Notice should have been December 31, 2018. Therefore, pursuant to section 53 of the *Act*, I find the effective date is deemed to be corrected to December 31, 2018.

In light of the above, I find the Application is dismissed, without leave to reapply.

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. I have examined the One Month Notice and find it complies with section 52 of the *Act*. Therefore, I grant the Landlord an order of possession, which will be effective on December 31, 2018, at 1:00 p.m. The order of possession may be filed in 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: December 21, 2018

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Residential Tenancy Branch