



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1030015 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDS, MNDC, RPP

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant, filed on April 15, 2019, for a monetary order for money owed, for the return of personal property and for the return of the security deposit.

Both parties appeared.

### Preliminary and Procedural matters

The first issue I must determine is whether the tenant has made their application for dispute resolution within the statutory time limit of 2 years from when the tenancy ended.

### **Latest time application for dispute resolution can be made**

**60** (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

On March 3, 2017, the landlord received an order of possession that was effective 2 days after service on the tenant. The tenant made an application for review consideration on March 7, 2017, which was dismissed on March 17, 2017, and the original Decision and Order were confirmed.

On March 28, 2017, the landlord received a writ of possession in the Supreme Court and the bailiffs enforced that writ of possession on April 5, 2017 and the tenant was removed from the premise.

The tenant indicated that the rent was paid for April 2017, ending the tenancy on April 30, 2017.

How a tenancy ends is defined in Section 44 of the Act

(1) A tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

...

(v) section 49 [*landlord's notice: landlord's use of property*];

...

**(d) the tenant vacates or abandons the rental unit;**

...

**(f) the director orders that the tenancy is ended;**

In this case, the tenancy was served with a notice to end tenancy pursuant to section 49 of the Act. The director ordered on March 3, 2017, that the tenancy end 2 days after service upon the tenant.

Although the tenant filed an application for review consideration of that Decision and Order on March 7, 2017, their application was dismissed on March 17, 2017 and the Decision and Order made on March 3, 2017 were confirmed.

The tenant failed to comply with the Order of the director and was removed from the rental unit on April 5, 2017, by the bailiffs.

Even, if the tenant paid rent for April 2017, I find that does not mean the tenancy ended on April 30, 2017. The landlord was entitled to be in the same position as if the tenant did not violate the Order and was entitled to receive occupancy rent until the bailiffs enforced the writ of possession, which was on April 5, 2017.

Under the Act, the tenancy ends when ordered by the director. I find the tenancy legally ended on or about March 7, 2017, and the tenant was overholding the premise until April 5, 2017.

I find the tenant did not file their application within the statutory time limit of within 2 years of the tenancy ending as their application was required to be filed prior to March 7, 2019. Therefore, I dismiss the tenant's application without leave to reapply.

As I have found the tenant did not file their application within the statutory time limits and the merits are barred from being heard, I was not required to hear any evidence from the tenant's witnesses.

### Conclusion

The tenant did not file their application within 2 years of the tenancy ending. Therefore, I dismiss the tenant's application without leave to reapply.

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: May 31, 2019

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Residential Tenancy Branch