



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROSPERO INTERNATIONAL REALTY INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Code            MT   CNC

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on April 24, 2019 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- an order granting more time to make an application for dispute resolution; and
- an order cancelling a One Month Notice to End Tenancy for Cause, dated April 4, 2019 (the "One Month Notice").

K.C.M. attended the hearing on behalf of the Tenants. The Landlord was represented at the hearing by J.S., an agent. K.C.M. and J.S. provided affirmed testimony.

The Tenants applied for more time to make an application for dispute resolution. Section 66(1) of the *Act* permits the director to extend a time limit established under the *Act* "only in exceptional circumstances".

In this case, K.C.M. testified that she believed the Application was submitted on time, and that she did everything that was required of her. On review of the Application materials, the Tenants acknowledge receipt of the One Month Notice on April 4, 2019. Therefore, pursuant to section 47(4) of the *Act*, the Tenants had until April 14, 2019, to dispute the One Month Notice by making an application for dispute resolution. Section 47(5) of the *Act* confirms that failure to do so results in the conclusive presumption the Tenants accepted the tenancy ends on the effective date of the One Month Notice.

A case management note dated April 26, 2019, states, in part:

2019-04-26 4:06:05 PM...

*SBC APP WAS ORIGINALLY REC'D APR 8 – NO REASON CHOSEN ON APP AND NO CONTACT INFO TO REACH APPLICANT – APP WAS ABANDONED. SBC RESENT APP APR 24 AND I FOUND A PHONE NUMBER ON THE FEE WAIVER. CONFIRMED APPLICANT WANTS TO DISPUTE A ONE MONTH NTE. I LET HER KNOW I WOULD PROCESS THAT APP AND SHE COULD COMPLETE AN AMENDMENT WHEN SHE PICK UP DOCS...PROCESSED APP AND FEE WAIVER WAS DECLINED...*

[Reproduced as written.]

On review of the case management note, it appears that no further action was taken on the original application until April 24, 2019, at which time an application for a fee waiver was submitted. Rule of Procedure 2.6 states:

*The Application for Dispute Resolution has been made when it has been submitted and either the fee has been paid or when all documents for a fee waiver have been submitted to the Residential Tenancy Branch directly or through a Service BC Office.*

[Reproduced as written.]

Therefore, I find the Application was not made until April 24, 2019. Therefore, I find the Tenants were out of time to make the Application and that the conclusive presumption found in section 47(5) of the *Act* applies. Further, I find there is insufficient evidence before me to conclude there were exceptional circumstances to support granting an extension of time to dispute the One Month Notice.

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. With the agreement of J.S., the order of possession will be effective on June 30, 2019, at 1:00 p.m.

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: June 11, 2019

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Residential Tenancy Branch