



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      CNC MT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- more time to make an application to cancel the landlord's One Month Notice to End Tenancy for Cause pursuant to section 66;
- cancellation of a One Month Notice to End Tenancy For Cause, pursuant to section 47.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to make submissions.

The landlord advised that the tenant's application did not identify the correct landlord name as per the tenancy agreement. The landlord's name has been amended in this decision.

### Issues

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

### Background and Evidence

The tenancy for this subsidized housing unit began on November 1, 2013 with a current monthly rent of \$750.00 payable on the 1<sup>st</sup> day of each month.

The landlord testified that on April 8, 2019, the tenants were served with the One Month Notice to End Tenancy by registered mail. The tenant acknowledged receiving the Notice soon after this date. The effective date of the One Month Notice was May 31, 2019. The tenant requested and was subsequently granted an extension of two

month's to utilize the rental unit on a use & occupancy only basis. The tenant has been issued receipts on a use & occupancy basis for the months of June and July 2019.

The tenant's application to cancel the One Month Notice was filed on June 21, 2019.

### Analysis

Pursuant to section 66 of the Act, the director may extend a time limit established by this Act only in exceptional circumstances. Under subsection 66(3), the director has no authority to extend the time limit to make an application to dispute a notice to end a tenancy beyond the effective date of the notice.

As the tenant's application was filed after the effective date of the One Month Notice, I have no jurisdiction to grant the tenant an extension to the time limit for filing an application to dispute the Notice.

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

Pursuant to section 47(4) of the Act, the tenant may make a dispute application within ten days of receiving the One Month Notice. As the tenant was deemed served with the One Month Notice at the latest on April 13, 2019, the tenant's application should have been filed on or before April 23, 2019. The tenant's application was not filed until June 21, 2019. In accordance with section 47(5) of the Act, as the tenant failed to take this action within ten days, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the One Month Notice, May 31, 2019.

The tenant's application to cancel the One Month Notice is dismissed. I find that the One Month Notice complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act. The tenant has paid rent for the month of July 2019 on a use & occupancy basis as agreed to by the landlord. Therefore, the landlord is granted an order of possession effective July 31, 2019.

### Conclusion

I grant an Order of Possession to the landlord effective **1:00 p.m. on July 31, 2019**. Should the tenant(s) 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: July 15, 2019

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Residential Tenancy Branch