



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC MT LAT LRE OLC RP ERP

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, by teleconference, was held on December 10, 2019. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

Both parties attended the hearing and provided testimony. The Landlord confirmed receipt of the Tenants' application package and evidence. The Landlord did not submit any documentary evidence, and relied upon oral testimony for the hearing.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Act*, some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues before me deal with whether or not the tenancy is ending and whether or not the Tenant should be given more time to file this application. As a result, I exercised my discretion to dismiss, with leave to reapply, all of the grounds on the Tenant's application with the exception of the following ground:

- Is the Tenant entitled to more time to file her application to cancel a 1 Month Notice to End Tenancy for Cause (the "Notice"), and should the Notice be cancelled?

#### Issue(s) to be Decided

- Should the Tenant be allowed more time to make an application to cancel the Notices?
- Should the Notices be cancelled?
  - If not, is the Landlord entitled to an Order of Possession?

#### Background and Evidence

Both parties agree that the Tenant has resided in the rental unit for around a year, and is currently on a month-to-month tenancy, paying monthly rent in the amount of \$750.00, which is due on the first of the month.

The Landlord has issued two 1-Month Notices to End Tenancy. The first (which she completed around September 29, 2019) she posted to the Tenant's door. The second, which she completed on November 9, 2019, she also posted to the Tenants door. The Landlord could not recall which dates she actually posted the Notices to the door. In the hearing, the Tenant confirmed that she received both Notices on November 9, 2019.

The first Notice indicates the following reasons for ending the tenancy on the second page:

Tenant or a person permitted on the property by the tenant has:

- Put the Landlord's property at significant risk.

Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:

- Jeopardize a lawful right or interest of another occupant or the Landlord.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The second Notice indicates the following reasons for ending the tenancy:

Tenant or a person permitted on the property by the Tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the Landlord.
- seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.
- put the Landlord's property at significant risk.

### Analysis

Section 47 of the *Act* states that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. The Landlord was unclear when these Notices were served. However, the Tenant was clear in the hearing that she received the Notices on October 9, 2019, and that they were posted to her door.

As the Tenant received the Notices on October 9, 2019, she had until October 19, 2019, to dispute the Notices.

After reviewing the file, I note that the Tenant's application was not made until October 21, 2019, the day her application was received by Service BC. In this case, the Tenant did not apply within the allowable 10 day window, which lapsed 2 days before she applied.

Section 66 of the *Act* states the director may extend a time limit established under the *Act* only in exceptional circumstances. Residential Tenancy Policy Guideline #36 states that "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend the time limit. The Guideline goes on to say that exceptional implies that the reason for failing to do something at the time required is **very strong** and **compelling**.

After reviewing the file before me, I note that the Tenant provided no statements or explanation as to why she required extra time to file her application.

It is unclear why the Tenant would be unable to make an application at any point within the 10 Day time period allowed under the Act. I do not find the Tenant has sufficiently demonstrated that her circumstances were exceptional, such that it warrants extra time to file an application for review.

As a result, I find that the Tenant is not entitled to more time to make an Application to cancel the Notices and her late Application is therefore dismissed in its entirety.

As the Tenant's Application is dismissed, I must now consider if the Landlord is entitled to an Order of Possession pursuant to sections 55 of the *Act*. Under section 55 of the *Act*, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52, I must grant the Landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find that the Notices issued by the Landlord both meet the requirements for form and content and the Landlord is entitled to an order of possession. The Order of Possession will be effective at 1:00 P.M. on December 31, 2019.

### Conclusion

The Tenant's request for more time to make an application to cancel the Notice is dismissed. Further, the Tenant's application to cancel the Notice is also dismissed.

The landlord is granted an order of possession effective **December 31, 2019, at 1pm**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 10, 2019

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Residential Tenancy Branch