



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Belmont Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC-MT

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Tenant applied for an order to cancel a One Month Notice to End Tenancy For Cause, dated October 19, 2021 (the One Month Notice), and sought more time to dispute the Notice.

The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified they served their Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Landlord by hand on an unknown date. The Landlord confirmed they received the documents, and stated they received them on November 3 or 4, 2021. I find the Tenant served the Landlord in accordance with section 89 of the Act.

The Landlord testified they served their responsive evidence on the Tenant in person on December 10, 2021. The Tenant confirmed they received the documents. I find the Landlord served the Tenant in accordance with section 89 of the Act.

Issue(s) to be Decided

- 1) Is the Tenant entitled to more time to dispute the One Month Notice?
- 2) Is the Tenant entitled to an order to cancel the One Month Notice? And if not, is the Landlord entitled to an order of possession?

Background and Evidence

The parties agreed on the following particulars of the tenancy. It began on February 1, 2021; rent is \$1,300.00, due on the first of the month; and the Tenant paid a security deposit of \$650.00, which the Landlord still holds.

The Landlord testified they served the Tenant with the One Month Notice on October 19, 2021 by posting it on the door. The Tenant testified they received the Notice the same day. The Tenant submitted their application to dispute the One Month Notice on November 1, 2021, and continues to occupy the rental unit.

The Tenant testified they required more time to dispute the One Month Notice, as they had been involved in a tragic workplace event in which they accidentally killed someone. The Tenant testified this has resulted in them experiencing post traumatic stress and being put on short-term disability leave. The Tenant testified that since the accident, they “have good and bad days,” sometimes cannot leave home, have intense anxiety, sometimes get days mixed up, and lose track of time.

A copy of the One Month Notice was submitted as evidence. It is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the grounds for ending the tenancy, and is in the approved form. The reasons indicated for the One Month Notice are:

- the Tenant is repeatedly late paying rent;
- the Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord; and
- the Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord testified they are seeking an order of possession effective December 31, 2021.

Analysis

Based on the parties’ testimony, I find the Landlord served the Tenant the One Month Notice on October 19, 2021, in accordance with section 88 of the Act, and the Tenant received it on the same day.

I find the One Month Notice meets the form and content requirements of section 52.

In their testimony, the Tenant described personal circumstances I acknowledge as extremely challenging. However, my decision regarding whether they are entitled to more time to dispute the One Month Notice must be governed by the Act, which at section 66 states:

Director's orders: changing time limits

66 (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*.

The Residential Tenancy Branch [Policy Guideline 36, Extending a Time Period](#), provides guidance on the Act's intention regarding "exceptional circumstances"; it states: "The word 'exceptional' implies that the reason for failing to do something at the time required is very strong and compelling." As an example of what might be considered an exceptional circumstance, the guideline cites a situation in which the party was in the hospital at all material times, stating:

The evidence which could be presented to show the party could not meet the time limit due to being in the hospital could be a letter, on hospital letterhead, stating the dates during which the party was hospitalized and indicating that the party's condition prevented their contacting another person to act on their behalf.

Considering the Act and the Policy Guideline, and the fact that the Tenant has submitted no documentary evidence to support their testimony, such as documentation from a healthcare professional, I must determine that the reason and evidence provided by the Tenant is not sufficient to meet the high bar required, and I therefore cannot grant the Tenant more time to apply to dispute the One Month Notice.

As the One Month Notice was received by the Tenant on October 19, 2021, the application deadline was 10 days later: October 29, 2021. However, the Tenant applied to cancel the One Month Notice on November 1, 2021. Therefore, in accordance with section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on November 30, 2021, the effective date of the notice, and the Landlord is entitled to an order of possession.

I accept the Tenant's affirmed, undisputed testimony describing the very difficult personal circumstances they have been facing. In recognition of that, I am granting the

Tenant more time to vacate the rental property; the tenancy will end January 31, 2022, at 1:00 p.m.

In accordance with section 26 of the Act and the tenancy agreement, the Tenant must pay \$1,300.00 in rent on January 1, 2022.

Conclusion

The Tenant's application is dismissed.

The tenancy will end January 31, 2022, at 1:00 p.m.

The Landlord is granted an order of possession which will be effective January 31, 2022, at 1:00 p.m. The order of possession must be served on the Tenant. The order of possession 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: December 21, 2021

Residential Tenancy Branch