



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capital Regional Housing Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC-MT, FFT

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 on January 10, 2022 for:

- an order to cancel a One Month Notice to End Tenancy for Cause, dated December 14, 2021 (the One Month Notice), seeking more time to dispute the Notice; and
- the filing fee.

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 she served her Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Landlord in person, around January 24, 2022. The Landlord confirmed she received the documents on January 21, 2022. I find the Tenant served the Landlord in accordance with section 89 of the Act.

The Landlord testified she served her responsive evidence on the Tenant by registered mail on February 14, 2022. The Tenant confirmed she received the documents. I find the Landlord served the Tenant in accordance with section 88 of the Act.

Issues 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?
- 3) Is the Tenant entitled to the filing fee?

Background and Evidence

The parties agreed on the following particulars of the tenancy. It began on August 1, 2014; rent is \$577.00, due on the first of the month; and the Tenant paid a security deposit of \$280.00, which the Landlord still holds.

The Landlord testified she served the Tenant with the One Month Notice on December 14, 2021, in person. The Tenant testified she received the Notice as described.

The Tenant testified she required more time to dispute the One Month Notice as she was unable to find her tenancy agreement, and needed more time to send in evidence. The Tenant provided no further testimony or evidence in support.

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 is: the Tenant is repeatedly late paying rent.

The Landlord testified that the Tenant paid rent as follows:

Month	Date rent paid
December 2021	December 22, 2021
January 2022	January 24, 2022
February 2022	February 9, 2022
March 2022	Rent not paid
April 2022	Rent not paid

The Tenant did not dispute the Landlord's testimony regarding rent payments.

The Tenant testified that things have been difficult for her financially since December, and that she intends to pay for the two months' outstanding rent.

The Landlord testified she is seeking an order of possession effective as soon as possible.

Analysis

Based on the parties' testimony, I find the Landlord served the Tenant the One Month Notice on December 14, 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 as 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.

In her testimony, the Tenant stated that she required more time to dispute the notice as she could not locate her tenancy agreement, and needed more time to submit evidence. My decision on whether the Tenant is 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, I must determine that the reasons provided by the Tenant are 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 December 14, 2021, the application deadline was 10 days later: December 24, 2021. However, the Tenant applied to cancel the One Month Notice on January 10, 2022. Therefore, in accordance with section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on January 31, 2022, the effective date of the notice, and must vacate the rental unit.

Therefore, I find the Landlord is entitled to an order of possession.

As the Landlord has testified that the Tenants still occupy the rental unit, I order that in accordance with section 68(2)(a) of the Act, the tenancy ended on the date of the hearing, April 8, 2022.

Conclusion

The Tenant's application is dismissed.

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenant. 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: April 12, 2022

Residential Tenancy Branch