



# Dispute Resolution Services

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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 Codes**      CNC-MT, FF

### **Introduction**

This hearing dealt with the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the One Month Notice to End Tenancy for Cause (Notice) issued by the landlord;
- an order extending the time to file an application disputing the Notice issued by the landlord; and
- recovery of the cost of the filing fee.

The tenant, the landlord's agent (agent), and the landlord's witnesses attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. The parties were affirmed.

Both parties confirmed they were not recording the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules).

Words utilizing the singular shall also include the plural and vice versa where the context requires.

### **Procedural Matters-**

The tenant was informed that the matter of his request for more time to file the application would be the first issue addressed in the hearing. Out of an abundance of caution, I allowed the parties to present evidence at the hearing relating to the Notice;

however, at the conclusion of the hearing, I informed both parties that I still reserved my right to address and consider the tenant's request for an order extending the time to file an application.

### Issue(s) to be Decided

Should the tenant be granted more time to apply to cancel the landlord's Notice and, if so, should the Notice be cancelled?

### Background and Evidence

The tenant submitted a written tenancy agreement showing a two-month, fixed-term tenancy start date of April 7, 2021.

The subject of this dispute is the One Month Notice to End Tenancy for Cause issued to the tenant. The Notice filed in evidence was dated February 25, 2022, and listed an effective move-out date of April 1, 2022. Also filed in evidence by the landlord was a written, signed proof of service that the Notice was served to the tenant on February 25, 2022, by personal service. The tenant in their application said the Notice was served by personal service on February 24, 2022.

The causes listed on the Notice were:

- the tenant or a person permitted on the residential property by the tenant has;
  - significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
  - put the landlord's property at significant risk.
- the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has or is likely to:
  - adversely affect the quiet enjoyment of, security, safety or physical well-being of another occupant.
  - jeopardize a lawful right or interest of another occupant or the landlord.

In support of his request to extend the time to file an application in dispute of the Notice, the tenant wrote the following:

*Reasons are vague, obtuse ? Unlawful, illegal rules in place. Rules procedures contrary to BC Health and RTB. Late because I have been overly social looking for a partner in the current beautiful weather. I am a bad procrastinator.*

The tenant testified that he was out looking for a female companion and that his search was successful as he now has a girlfriend.

### Analysis

Based on the documentary and oral evidence provided, and on a balance of probabilities, I find the following.

Section 47 of the Act authorizes a landlord to seek to end a tenancy for a variety of reasons by providing a tenant with a notice to end tenancy that complies with section 52 of the Act.

The One Month Notice provided information to the tenant, which explained that the tenant had the right to dispute the Notice **within 10 days** by filing an application for dispute resolution at the Residential Tenancy Branch online, in person at any Service BC Office or by going to the RTB office in Burnaby in dispute of the Notice.

The Notice also explains that if the tenant did not file an application to dispute the Notice within the required time limit, 10 days, then the tenant is **presumed** to have accepted the end of the tenancy and **must** move out of the rental unit by the effective date of the Notice. These instructions are provided in sections 47(4) and 47(5) of the Act.

Although the tenant submitted on their application they received the Notice on February 24, 2022, I find that the tenant was served and received the One Month Notice to End Tenancy, on February 25, 2022. Therefore, the tenant had until **March 7, 2022**, to file and complete their application and did not until March 8, 2022, the date the filing fee was paid.

As this is more than 10 days after they received the Notice, I find that the tenant did not file their application to dispute the Notice within the timeline established by section 47(4) of the Act.

Section 66(1) of the Act authorizes me to extend the time limit for applying to set aside a Notice to End Tenancy **only** in exceptional circumstances. The word “exceptional” means that I am unable to extend this time limit for ordinary reasons. The word “exceptional” implies that the reason for failing to meet the legislated timelines is very strong and compelling. A typical example of an exceptional reason for not complying with the timelines established by legislation would be that the tenant was hospitalized for an extended period after receiving the Notice.

The tenant submitted that he was socializing and looking for a partner and that he was a procrastinator.

In my view, socialization and procrastination are not exceptional circumstances.

I find that the reasons provided by the tenant for not disputing the Notice within 10 days of receiving it are neither strong nor compelling, and are not exceptional. I therefore **dismiss** the tenant’s application for more time to apply to cancel the Notice.

Due to the above, I find the tenant was conclusively presumed to have accepted that the tenancy ended on April 1, 2022, the effective date of the Notice, and I **dismiss** the tenant’s application seeking cancellation of the One Month Notice.

I order that the tenancy ended on April 1, 2022, as a result of the above.

In reviewing the Notice, I find it was on the RTB approved form with content meeting the statutory requirements under section 52 the Act.

I find that the landlord is entitled to, and I **grant an order of possession for the rental unit effective 2 days after it has been served on the tenant, pursuant to section 55(1)(b) of the Act.**

The order of possession must be served on the tenant to be enforceable. Should the tenant fail to vacate the rental unit, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement, such as **bailiff fees**, are recoverable from the tenant.

Conclusion

The tenant's application is dismissed, without leave to reapply, as I have found that the tenant did not apply to dispute the Notice within the required timeline and as I have dismissed the tenant's application for an order extending the time to file an application.

The landlord has been issued an order of possession for the rental unit, effective 2 days after it has been served on the tenant.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: June 27, 2022

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Residential Tenancy Branch