



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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## **DECISION**

### **Introduction**

The Tenant seeks an order cancelling a *One Month Notice to End Tenancy for Cause* (the “Notice”) under section 47 of the *Residential Tenancy Act* (the “Act”), an order for landlord compliance under section 62 of the Act, and, to recover the cost of the application fee under section 72 of the Act.

By way of cross-application, the Landlords seek an order of possession based on the Notice. They also seek to recover the cost of their application fee.

### **Preliminary Issue: Tenant’s Application for Dispute Resolution and subsection 47(4)**

The Tenant was served with the Notice in-person on September 27, 2023. All pages of the Notice were served upon the Tenant. (A copy of the Notice was submitted into evidence.) This Notice was given under subsection 47(1)(h) of the Act and is indicated as such on page two of the Notice.

Pursuant to subsection 47(h), a tenant who receives a notice to end the tenancy under section 47 of the Act “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 Tenant testified that she was served with the Notice in-person, and that she was in town for about a week before departing (“within the week [of receiving the Notice]”) for Kotzebue, Alaska. The Tenant frequently visits this remote city where there is zero cellular service and only intermittent internet connection.

The deadline under subsection 47(h) of the Act would have been October 10, 2023. Ten days commencing on September 28 brings us to October 7, which is a Saturday, and October 9, 2023, was Thanksgiving, a statutory holiday. The next business day, then, was October 10, 2023. The number of days as calculated above is in accordance with the definition of “Days” on page 6 of the [Rules of Procedure](#), under the Act.

Section 66(1) of the Act permits an arbitrator to “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].”

Based on the facts before me, while the Tenant departed for Alaska sometime within the week after receiving the Notice, it cannot be disputed that the Tenant therefore had at

least five, maybe more, days in which an application for dispute resolution may have been filed.

However, I am unable to find that there were any exceptional circumstances by which the time limit to dispute the Notice may be extended. For this reason, I must find that the Tenant did not file her application to dispute the Notice within the 10-day period permitted under subsection 47(h) of the Act.

This conclusion leads me to apply section 47(6) of the Act, which states that

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

In other words, the Tenant was conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice (which was October 31, 2023) and was—along with any roommates or other occupants—required to vacate the rental unit by that date.

Pursuant to sections 55(1) and 55(2)(b) of the Act, having dismissed the Tenant's application, and having found that the Notice complies with section 52 of the Act, I order that the Landlords be granted an order of possession of the rental unit. It is thus unnecessary for me to consider the merits of the ground on which the Notice was served.

A copy of the order of possession is issued with this decision to the Landlords, who must serve a copy of the order of possession upon the Tenant forthwith.

Having considered the submissions of the parties, I exercise my discretion and give the order of possession an effective date of February 29, 2024. The Tenant is required to pay rent for the month of February 2024.

As the Landlords were successful in this application, they are entitled to deduct \$100.00 of the Tenant's security deposit *after* the conclusion of the tenancy.

### Conclusion

The Tenant's application is dismissed without leave to reapply.

The Landlords' application is granted, and they are issued an order of possession of the rental unit with an effective date of February 29, 2024.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: January 26, 2024