

## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act

This hearing also dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Residential Tenancy Branch Rules of Procedure 7.4 enables the Arbitrator to restrict evidence under consideration to evidence referred to by the parties during the hearing.

In accordance with Residential Tenancy Branch Rules of Procedure 7.4, only the evidence referred to by the parties during the hearing will be considered.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence**

#### **Tenant's Application**

The Landlord's agent confirmed service of the Proceeding Package and Tenant's evidence.

#### **Landlord's Application**

The Tenant confirmed service of the Proceeding Package and Landlord's evidence.

### **Analysis**

Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Is the Tenant entitled to more time to cancel the Landlord's One Month Notice?

Are the Landlords entitled to recover the filing fee for this application from the Tenants?

## **Background and Evidence**

I have reviewed all evidence referred to during the hearing, including the testimony of the parties, but will refer only to what I find relevant for my decision.

The parties testified that this tenancy began on January 1, 2018, with a monthly rent of \$663.00, due on the first day of the month. The Tenant paid a security deposit of \$200.00 and a pet damage deposit of \$200.00.

The Tenant provided as evidence the One Month Notice dated September 9, 2025, with an effective date of October 31, 2025.

The Tenant testified that they received the One Month Notice attached to their door on September 9, 2025, and the Tenant's application provides the same.

The Tenant testified the following:

- they need more time to dispute the One Month Notice for the following reasons:
  - they have been in and out of the hospital for over five months
  - the BC Services Office in Kelowna, British Columbia was closed due to the strike
  - they were having a hard time representing themselves
  - they did manage to get a doctor's note

The Tenant provided the following as evidence:

- a copy of a letter dated October 10, 2025, from P.M., that states, "She is presently on a medical leave. She will be ready to now start a graduated return to work on December 1, 2025. She will be medically fit to begin the graduated return to work process on December 1, 2025.

The Landlord's agent testified the following:

- the Tenant knows that they have a guest computer at their office if the needed to use it
- the postal strike began on September 25, 2025, and ended on October 10, 2025

## **Analysis**

## **Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?**

### **Is the Tenant entitled to more time to cancel the Landlord's One Month Notice?**

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Section 47 of the Act states that a Landlord may issue a Notice to End Tenancy for Cause to a Tenant if the Landlord has grounds to do so. Section 47 of the Act states that upon receipt of a Notice to End Tenancy for Cause the Tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the Tenant files an application to dispute the notice, the Landlord bears the burden to prove the grounds for the One Month Notice. As the Tenant disputed this notice on September 23, 2025, and since I have found that the One Month Notice was served to the Tenant on September 9, 2025, I find the Tenant had until September 19, 2025, to dispute the One Month Notice.

The Tenant has applied for dispute resolution requesting more time to cancel a notice to end tenancy. Section 66 of the Act states that the Director may extend a time limit established by the Act only in exceptional circumstances. The Director must not extend the time limit to make an application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the notice.

Residential Tenancy Policy Guideline 36 Provides the following:

The Residential Tenancy Act and the Manufactured Home Park Tenancy Act provide that an Arbitrator may extend or modify a time limit established by these Acts only in exceptional circumstances. An Arbitrator may not extend the time limit to apply for arbitration beyond the effective date of a Notice to End a Tenancy and may not extend the time within rent must be paid without the consent of the landlord.

### **Exceptional Circumstances**

The word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an Arbitrator to extend that time limit. The word "exceptional" implies that the reason for failing to do something at the time required is very strong and compelling. Furthermore, as one Court noted, a "reason" without any force of persuasion is merely an excuse. Thus, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.

Some examples of what might not be considered "exceptional" circumstances include:

- the party who applied late for arbitration was not feeling well
- the party did not know the applicable law or procedure
- the party was not paying attention to the correct procedure
- the party changed his or her mind about filing an application for arbitration
- the party relied on incorrect information from a friend or relative

Following is an example of what could be considered "exceptional" circumstances, depending on the facts presented at the hearing:

- the party was in the hospital at all material times

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 them from contacting another person to act on their behalf.

The criteria which would be considered by an Arbitrator in making a determination as to whether or not there were exceptional circumstances include:

- the party did not willfully fail to comply with the relevant time limit
- the party had a bona fide intent to comply with the relevant time limit
- reasonable and appropriate steps were taken to comply with the relevant time limit
- the failure to meet the relevant time limit was not caused or contributed to by the conduct of the party
- the party has filed an application which indicates there is merit to the claim
- the party has brought the application as soon as practical under the circumstances

Based on the evidence, the testimony of the parties, and on a balance of probabilities I find the Tenant did not provide sufficient evidence that an exceptional circumstance prevented them from applying within the time limit or that due to an exceptional circumstance they were prevented from contacting another person to act on their behalf with the time limit. The Tenant did not provide any corroborating evidence that supports they were in and out of the hospital for the past five months. No documentation was provided with a hospital letterhead from a regulated health professional that supports the Tenant was hospitalized from September 10, 2025, to September 19, 2025, which would be the dates the Tenant had to dispute the Notice, and that their condition prevented them from contacting another person to act on their behalf as required under Residential Tenancy Policy Guideline 36 and section 66 of the Act. Therefore, the Tenant's application is dismissed without leave to reapply.

For the above reasons, the Tenant's application for cancellation of the Landlord's One Month Notice and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act is dismissed, without leave to reapply.

### **Is the Landlord entitled to an Order of Possession based on a Notice to End Tenancy?**

Section 55(1) of the Act states that if a Tenant makes an application to set aside a Landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must

grant the Landlord an order of possession if the notice complies with section 52 of the Act.

I find that the Notice complies with section 52 of the Act. Therefore, I find that the Landlord is entitled to an Order of Possession.

**Is the Landlord entitled to recover the filing fee for this application from the Tenant?**

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

**Conclusion**

I grant an Order of Possession to the Landlord **effective by 1:00 PM on November 30, 2025, after service of this Order on the Tenant.** Should the Tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Tenant's application for cancellation of the Landlord's One Month Notice to End Tenancy and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act is dismissed, without leave to reapply.

I order the Landlord to retain from the Tenant's security deposit security the amount of \$100.00 in satisfaction of the claim under section 72 of the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: October 24, 2025

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Residential Tenancy Branch