



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: CNC, CNR, FF

### Introduction

This hearing dealt with the tenant's application to cancel a Notice to End Tenancy issued for cause and a Notice to End Tenancy issued for unpaid rent. Both parties appeared at the hearing and had an opportunity to be heard, including a witness presented by the landlord.

The tenant requested more time to make the application due to his line of work which causes him to be at sea for weeks at a time.

### Issue(s) to be Decided

1. Whether the tenant's request for more time to make an application is warranted.
2. Whether there is a basis to cancel the 1 Month Notice to End Tenancy for Cause.
2. Whether there is a basis to cancel the 10 Day Notice to End Tenancy for Unpaid Rent.
3. Award of the filing fee.

### Background and Evidence

The landlord issued a *1 Month Notice to End Tenancy for Cause* on July 21, 2008 and gave it to an adult at the rental unit who claimed to be a friend of the tenant. The landlord then sent the Notice to the tenant by registered mail on July 23, 2008. The tenant did not pick up the registered mail and the registered mail was returned to the landlord. The landlord served a *10 Day Notice to End Tenancy for Unpaid Rent* to the tenant by posting it to the door. The tenant acknowledged that he had received both Notices at some point in time from the landlord.

After hearing considerable testimony concerning loud noises frequently coming from the rental unit while the tenant was both in town and away from home, including testimony from the tenant that lives directly below the tenant, I was able to facilitate a mutual agreement between the parties to end the tenancy.

At the hearing, the parties mutually agreed to the following terms:

1. The tenancy shall continue until September 30, 2008.
2. The tenant and any other occupant or guest of the tenant will vacate the rental unit on or before September 30, 2008.
3. The tenant will provide a key that works for the lock(s) of the rental unit in order for the landlord to have a copy of the key.

#### Analysis

I was not satisfied that the 1 Month Notice was adequately served on July 21, 2008; therefore, I accepted that it was adequately served in accordance with the Act by registered mail sent to the tenant on July 23, 2008. In accordance with section 90 of the Act, I find that the registered mail was deemed to be received by the tenant on July 28, 2008. I note that the tenant confirmed he was back in town on August 11, 2008 and the registered mail was available for pick-up at Canada Post until August 13, 2008 according to a search of the registered mail tracking number. The 10 Day Notice is also deemed to be received three days after it is posted, or August 5, 2008. The tenant had until August 7, 2008 and August 10, 2008, respectively, to dispute the Notices. The tenant did not dispute the Notices until August 15, 2008; however, I granted the tenant's request for more time to make the application to dispute the Notices due to his work schedule that requires him to be at sea for periods of time. Therefore, the tenant's application proceeded to be heard.

I accept the mutual agreement reached between the parties and I ORDER that it be binding upon the parties. I provide the landlord with an Order of Possession effective September 30, 2008. The Order of Possession must be served upon the tenant and may be enforced as an Order of The Supreme Court of British Columbia.

I make no award to the tenant for recovery of the filing fee paid for this application.

Conclusion

The tenancy will end by mutual agreement on September 30, 2008. An Order of Possession effective September 30, 2008 is provided to the landlord.

September 12, 2008

\_\_\_\_\_  
Date of Decision

\_\_\_\_\_