



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, MT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on December 24, 2018 (the "Application"). The Tenant applied for more time to extend the time limit established by the *Residential Tenancy Act* (the "Act") to make an Application for dispute resolution to obtain an order cancelling a One Month Notice to End Tenancy for Cause, dated December 15, 2018 (the "One Month Notice"), pursuant to the *Act*.

The Tenant's representative S.D. as well as the Tenant's counsel S.M. attended the hearing, each providing a solemn affirmation at the beginning of the hearing. No one appeared for the Landlord. The conference call line remained open and was monitored for 15 minutes before the call ended.

S.M. testified that she served the Tenant's Application and documentary evidence package to the Landlord on January 4, 2019 via registered mail. The Tenant submitted a copy of the registered mail receipt in support. Based on the oral and written submissions of the Tenant, and in accordance with sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have been served with the Application and documentary evidence on January 9, 2019, the fifth day after their registered mailings. The Landlord did not submit documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules of Procedure). However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to more time to allow the Application for Dispute Resolution, pursuant to Section 66 of the *Act*?
2. Is the Tenant entitled to an order cancelling One Month Notice, pursuant to Section 47 of the *Act*?

Background and Evidence

S.M. testified that the tenancy began about thirteen years ago. S.M. stated that currently rent in the amount of \$800.00 is due to be paid on the first day of each month to the Landlord. S.M. testified that the Tenant paid a security deposit in the amount of \$350.00 at the start of the tenancy, which the Landlord currently holds.

S.D. testified that he is the Tenant's son and currently lives with her. S.D. stated that he received the One Month Notice dated December 15, 2018 which had been posted to the Tenant's door on December 15, 2018. S.D. stated that the notice had an effective vacancy date of January 31, 2019. The Tenant submitted a copy of the One Month Notice in support.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47(4) of the *Act* provides that a Tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute the notice. After receiving the One Month Notice on December 15, 2018 the Tenant had until December 25, 2018 to dispute the One Month Notice. I find that the Tenant filed her Application on December 24, 2018 which is within the timeframe permitted under the *Act*. Therefore, I find the Tenant's Application for more time was not necessary.

According to Section 47(1) of the *Act*, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the onus of proof to prove that the One Month Notice is valid. I find that the Landlord was properly served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the Notice.

In light of the above, I cancel the One Month Notice, dated December 15, 2018.

I order the tenancy to continue until ended in accordance with the Act.

Conclusion

The Tenant's application is successful. The One Month Notice issued by the Landlord dated December 15, 2018 is cancelled.

The tenancy will continue until ended in accordance with 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 *Residential Tenancy Act*.

Dated: February 20, 2019

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Residential Tenancy Branch