



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MT, CNC, OLC, AAT

### Introduction

This matter dealt with an application by the Tenant for more time to cancel a Notice to End Tenancy, to cancel a One Month Notice to End Tenancy for Cause dated July 31, 2011, for an Order that the Landlord comply with the Act and for an Order allowing the Tenant or a guest of the Tenant access to the rental unit.

The Tenant said that on August 21, 2011 she served the Landlord, R.K., in person with the Application and Notice of Hearing (the "hearing package") on his own behalf and on behalf of the limited company Landlord. The Tenant said she also reminded R.K. the morning of the day of the hearing about the hearing by teleconference. Based on the evidence of the Tenant, I find that the Landlords were served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlords' absence.

### Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?
2. Are the Landlords entitled to restrict access to a guest of the Tenant's?

### Background and Evidence

The Parties provided few details about this month-to-month tenancy. The Tenant said her rent is \$525.00 per month payable at the beginning of each month. The Tenant claims that on or about August 3, 2011 she found a One Month Notice to End Tenancy for Cause dated July 31, 2011 posted on her door. The Tenant said she had not seen this previously as due to serious illnesses and a physical disability, she has a stooped posture and the Notice which was posted at the top of the door was not visible to her.

The Tenant said that she believes she was given this notice because she had a friend, K.T., come to the rental unit to assist her with cleaning and K.T. stayed with her overnight periodically. The Tenant said that she was not aware that the Landlords had banned K.T. from the rental property for allegedly selling illegal drugs. The Tenant said that any residents of the rental property who allowed K.T. onto the rental property were also issued One Month Notices. The Tenant said K.T. has not returned to the rental property for some time and she is unsure of K.T.'s whereabouts. The Tenant also said she intends to move out once she finds other accommodations.

### Analysis

In this matter, the Landlord has the burden of proof and must show (on a balance of probabilities) that he served the Tenant with an enforceable Notice to End Tenancy and that the grounds exist (as set out on the Notice to End Tenancy) to end the tenancy. However, in this case, the Landlords did not attend the hearing and therefore there is no evidence as to when the Tenant was served with the One Month Notice to End Tenancy. Furthermore, the Landlords did not provide a copy of the One Month Notice to End Tenancy for Cause dated July 31, 2011 as evidence at the hearing and therefore I also find that there is insufficient evidence to determine if it is an enforceable Notice that complies with s. 52 of the Act. For all of these reasons, the One Month Notice to End Tenancy for Cause dated July 31, 2011 is cancelled and the tenancy will continue.

Section 30 of the Act says in part that a landlord must not *unreasonably* restrict access to residential property to a Tenant's guests. This means that a Landlord must have a good reason to restrict a tenant from having guests. In this case, the Tenant claimed that the Landlord alleged her guest, K.T., had been banned from the rental property for allegedly selling drugs but she said she had no knowledge of that. The Tenant admitted that she no longer knew the whereabouts of K.T. and might be moving from the rental property in the near future. In the circumstances, I find that an Order requiring the Landlord to give access to the Tenant's guests is not necessary however the Tenant is granted leave to reapply for this relief should it be necessary to do so.

### Conclusion

The Tenant's application to cancel the One Month Notice to End Tenancy dated July 31, 2011 is granted. The Tenant's application for an Order allowing the Tenant or a guest of the Tenant access to the rental unit is dismissed with leave to reapply. 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: September 20, 2011.

---

Residential Tenancy Branch