



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Amica at Arbutus Manor  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing was convened to address a claim by the tenant for a monetary order. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on March 22, 2011 and that the tenant vacated the unit at the beginning of July 2013. The landlord entered into evidence a tenancy agreement which shows that the tenant paid \$3,150.00 per month for rent, housekeeping services, meals and onsite activity programming. The parties agreed that on July 4, 2013, the tenant gave the landlord written notice that she would be ending her tenancy on the same date and that the tenant was charged for both the months of July and August.

The tenant seeks to recover the cost of meals for July 2013 as she did not reside in the rental unit after July 4 and further seeks to recover rent paid for August 2013. The tenant argued that she could not stay in the rental unit because the manager would not listen to her concerns and she felt unsafe.

The tenant testified that staff members would frequently access her suite and on several occasions, took items from her suite. She said that on one occasion, a blouse went missing and reappeared quite some time later, packed in a box in her unit. She stated that it was a box she did not regularly use and that the blouse had been ruined because it had been washed.

The tenant gave extensive testimony about unauthorized entries into her suite which took place in 2011. She said that one of the staff members would enter her suite after she left and that she complained to management about the unauthorized entries as she would return to her suite and discover on some occasions the staff member still there and on other occasions that her belongings had been moved around. The landlord testified that upon receiving the complaint from the tenant, they conducted what they termed as a "Lock Audit" in which they could identify which key was used in the unit door for a defined period of time. They showed the Lock Audit to the tenant and explained each entry and why it was necessary. The Lock Audit was entered into evidence and shows that just one of the entries took place on a Wednesday evening, which were the evenings on which the tenant claimed that the illegal entries took place.

An Incident Report submitted into evidence by the landlord shows that in the early hours of July 1, 2013, the tenant noticed an odour in the suite and heard a noise. She contacted the landlord's agent with these complaints and also complained that staff had removed belongings from her room. The tenant then telephoned the police. The landlord received a call from the police advising them that the tenant had contacted them. The landlord arranged for a staff nurse to attend at the rental unit and the incident report shows that the nurse helped the tenant "settle down and go back to sleep."

The tenant testified that when she complained to management about her concerns regarding people entering the rental unit, she felt they were unconcerned and disrespectful. In particular, she said that the landlord's agent who appeared at the hearing, C.P., was disrespectful. She stated that by the end of June 2013, she was so distressed and felt so unsafe in the rental unit that she wanted to end her tenancy. She tried to meet with C.P. to advise her that she would be vacating the unit, but every time she asked other staff members where she could find C.P., she was told that C.P. was away.

The tenant testified that she did not give her notice to end her tenancy in writing prior to July 4 because she was unaware that it had to be in writing. The tenant's daughter testified that the tenant is legally blind and argued that although the tenancy agreement specifically states that a full month's written notice is required to end the tenancy, the tenant should not be responsible for the terms of the agreement as she is unable to read them for herself.

### Analysis

In order to succeed in her claim, the tenant must prove that the landlord is not entitled to the cost of meals for the month of July and rent in the month of August. The tenant was

obligated under the terms of the tenancy agreement to provide one full month's notice in writing to end her tenancy.

While I appreciate that the tenant is legally blind and may not have been able to read the tenancy agreement, she is clearly competent to conduct her own affairs and bore the responsibility of familiarizing herself with the terms of her agreement. Even if I were to find that the tenant were excused from knowing the terms of the tenancy agreement, the *Residential Tenancy Act* requires that one full month's notice be given when a tenant ends a residential tenancy and the tenant is bound by that law.

The only provision under the Act whereby a tenant may end a tenancy without providing one full month's written notice is when the landlord has breached a material term of the tenancy agreement. In that event, the tenant is required to provide the landlord with written notice that they have breached a material term, give the landlord an opportunity to correct that breach and if the landlord fails to do so, provide written notice that the tenancy will be ended on a date after the written notice is received.

Although the tenant has alleged that the landlord breached her right to quiet enjoyment of the rental unit, most of those alleged breaches took place in 2011, long before the tenant ended the tenancy. Based on the Lock Audit provided by the landlord, I am satisfied that the 2011 entries into her unit did not occur, or at least did not occur more than once as only one entry was recorded on a Wednesday evening. I find it very unlikely that staff would enter the tenant's room and move her belongings around or take a blouse only to return it after having washed it.

Other than the disappearance and reappearance of a blouse, the tenant was unable to identify any other belongings which the landlord's staff allegedly took. I find insufficient evidence to show that the landlord's staff took any of the tenant's belongings.

The tenant alleged that the landlord was disrespectful to her, but I am not satisfied that speaking in a respectful tone is a material term of the tenancy. It is therefore unnecessary for me to make a finding on whether the landlord was disrespectful.

The tenant acknowledged that the landlord inspected the unit when she reported an odour and an unusual noise and as these appear to be one time events and although the tenant may not be happy with the landlord's response, I am not satisfied that the landlord failed to meet their obligations in any way.

In any event, if the tenant believed that the landlord had breached a material term of the tenancy, the tenant had an obligation to put that allegation in writing and give the landlord an opportunity to rectify the breach. The tenant failed to do so and I therefore

find that the tenant did not meet the criteria for ending the tenancy without providing one full month's notice.

I find that the landlord was entitled to keep the full amount of rent for the month of July as the rent was inclusive of food and that the landlord was also entitled to keep the full amount of rent for August. I dismiss the tenant's claim in its entirety.

Conclusion

The claim is dismissed.

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: May 14, 2014

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Residential Tenancy Branch

