



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Beutle Masonry Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MT, CNC, OLC, AAT, FF

### Introduction

This hearing dealt with an application by the tenant for orders setting aside a 1 Month Notice to End Tenancy for Cause; granting her more time in which to make the application; compelling the landlord to comply with the Act, regulation or tenancy agreement; and allowing access to the rental unit by the tenant and her guests. Although served with the tenant's application for dispute resolution and notice of hearing by personal service on June 21, 2014, the landlord did not appear nor did it file any evidence in response to the tenant's application.

### Issue(s) to be Decided

- Did the tenant file her application disputing the notice to end tenancy in the time required by the Residential Tenancy Act?
- Is the 1 Month Notice to End Tenancy for Cause dated June 1, 2014 valid?
- Should any other orders be made and, if so, upon what terms?

### Background and Evidence

This month-to-month tenancy commenced November 6, 2012. The monthly rent of \$700.00 is due on the first day of the month. The tenant paid a security deposit of \$350.00. Effective August 1 the rent was increased to \$725.00 per month.

On June 4 the tenant found a 1 Month Notice to End Tenancy for Cause dated June 1, 2014 in her mailbox. There is no evidence as to when the notice was actually left in the mailbox.

On June 10 the tenant attended at the local B C Service Centre and filed this application for dispute resolution. It was subsequently amended on June 19 and the amended copy was served on the landlord on June 21.

One of the areas of conflict between the landlord and the tenant has been the presence of her friend M at the rental unit. The tenancy agreement states that only those persons listed on the tenancy agreement shall be permanent occupants of the premises unless authorized in writing by the landlord. The tenant stated that M is not an occupant of the rental unit but he does stay with her children while she works at night. M rotates with her sister as a babysitter.

### Analysis

A tenant who has been served with a 1 Month Notice to End Tenancy for Cause may dispute the notice by filing an application for dispute resolution within ten days of receiving the notice. (s.47(4))

A notice that is served by leaving a copy in the mailbox is deemed delivered on the third day after it is left. (s. 90(d))

Assuming that the notice was left in the mailbox on June 1 it is deemed received by the tenant on June 4. The tenant had until June 14 to file her application for dispute resolution. She did so within the ten day time limit so no order extending the time for doing so is required.

The onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy is based. The landlord did not submit any evidence nor did it appear at the hearing. The landlord did not meet its' onus of proof. Accordingly, the 1 Month Notice to End Tenancy for Cause dated June 1, 2014 is set aside and is of no force or effect. The tenancy continues until ended in accordance with the *Residential Tenancy Act*.

No other order will be made but the parties are reminded of s. 30(1) which states that a landlord must not unreasonable restrict access to residential property by the tenant or a person permitted on the residential property by the tenant.

As the tenant was successful on her application she is entitled to reimbursement from the landlord of the \$50.00 she paid to file it. Pursuant to section 72 this amount may be deducted from the next rent payment due to the landlord.

Conclusion

- a. The 1 Month Notice to End Tenancy for Cause dated June 1, 2014 is set aside and is of no force or effect.
- b. The tenant may deduct the \$50.00 fee she paid to file this application from the next rent payment due to the landlord.

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: August 14, 2014

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Residential Tenancy Branch

