



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding King George Enterprise Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            CNC, FF

### Introduction

This hearing was set to deal with an application by the tenants for an order setting aside a 1 Month Notice to End Tenancy for Cause. Although served with the Application for Dispute Resolution and Notice of Hearing by personal service on an office of the company on July 14, 2015, the landlord did not appear.

The rental unit is a pad in a manufactured home park. The tenants own their manufactured home. The tenants had filed their application pursuant to the *Residential Tenancy Act* instead of the *Manufactured Home Park Tenancy Act*. Their application is amended so that it is made pursuant to the correct legislation.

### Issue(s) to be Decided

Is the Notice to End Tenancy valid?

### Background and Evidence

This tenancy is a month-to-month tenancy. The monthly rent of \$718.00 is due on the first day of the month. The tenants give the landlord twelve post-dated cheques for the year.

On July 9, 2015 the tenants were served with a 1 Month Notice to End Tenancy for Cause. They filed their application for dispute resolution on July 13, 2015, within the time required for doing so.

The tenants' rent cheque for September was cashed by the landlord, who did not give the tenants a receipt or any other written acknowledgment of that payment.

### Analysis

Although the effective date of the notice was stated to be August 11, 2015, pursuant to section 40(2) of the *Manufactured Home Park Tenancy Act*, the effective date is actually August 31, 2015. Pursuant to section 46(6) the notice is automatically corrected.

As explained on the Residential Tenancy Branch web site, where a landlord has served the tenant with a One-Month Notice to End Tenancy, and then accepts a rent payment for the

month after the tenancy was to end, the landlord should clarify with the tenant whether they have reinstated the tenancy.

When a landlord does not want the tenancy to continue, the landlord should:

1. Specifically tell the tenant in writing that the rental payment is being accepted for the use and occupancy only and does not reinstate the tenancy; and,
2. Tell the tenant that they must move out, as required by the Notice to End Tenancy."

This is usually accomplished by the landlord giving the tenant a receipt that states the rent payment is being "accepted for use and occupancy only".

It makes no difference whether the landlord accepted a rent payment offered by the tenant for that month, cashed a post-dated cheque that was already in the landlord's possession, or received a payment from a third party, such as social assistance, for the rent. If the rent has been accepted for the month after the tenancy was to end, the landlord must give the tenant a receipt that makes it clear the rent is being accepted for "use and occupancy only" or the tenancy will usually be reinstated.

In this case, the landlord did accept the rent for the month after the tenancy was to end and did not advise the tenants in writing that the payment was being accepted "for use and occupancy only". Accordingly, I find that the tenancy has been reinstated and the 1 Month Notice to End Tenancy for Cause dated July 9, 2015, is unenforceable.

#### Conclusion

- a. The tenants' application has been granted for the reasons set out above.
- b. As the tenants have been successful on their application they are entitled to reimbursement from the landlord of the fee they paid to file it. Pursuant to section 65(2) the sum of \$50.00 may be deducted 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 *Manufactured Home Park Tenancy Act*.

Dated: September 21, 2015

---

Residential Tenancy Branch

