



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 537070 BC LTD  
TRIUMPH MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            CNC

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause, dated July 31, 2017 ("1 Month Notice"), pursuant to section 47.

The male tenant and the landlords did not attend this hearing, which lasted approximately 14 minutes. The female tenant ("tenant") and her advocate attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that her advocate had permission to speak on behalf of her and the male tenant, who is also named in this application.

The tenants' advocate testified that the landlords were served with the tenants' application for dispute resolution hearing package on August 21, 2017. The tenants provided a Canada Post receipt, tracking number and tracking printout indicating that the landlord received and signed for the package on August 22, 2017. In accordance with sections 89 and 90 of the *Act*, I find that the landlords were deemed served with the tenants' application on August 26, 2017, five days after its registered mailing.

The tenant testified that she personally received the landlords' 1 Month Notice on July 31, 2017. The effective move-out date on the notice is August 31, 2017. In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlords' 1 Month Notice on July 31, 2017.

### Issues to be Decided

Should the landlords' 1 Month Notice be cancelled? If not, are the landlords entitled to an order of possession?

### Analysis

In accordance with section 47(4) of the *Act*, the tenants must file their application for dispute resolution within ten days of receiving the 1 Month Notice. In this case, the tenants received the 1 Month Notice on July 31, 2017 and filed their application to dispute it on August 10, 2017. Accordingly, I find that the tenants' application was filed within the ten day time limit under the *Act*.

Where tenants apply to dispute a 1 Month Notice, the onus is on the landlords to prove, on a balance of probabilities, the grounds on which the 1 Month Notice is based. The landlords did not appear at this hearing. The landlords did not meet their onus of proof.

Therefore, as advised to the tenant during the hearing, the landlords' 1 Month Notice, dated July 31, 2017, is cancelled and of no force or effect. The landlords are not entitled to an order of possession under section 55 of the *Act*. This tenancy will continue until it is ended in accordance with the *Act*.

### Conclusion

I allow the tenants' application to cancel the landlords' 1 Month Notice. The landlords' 1 Month Notice, dated July 31, 2017, is cancelled and of no force or effect. The landlords are not entitled to an order of possession under section 55 of the *Act*.

This tenancy continues until it is 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: November 07, 2017

---

Residential Tenancy Branch