



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GREENBRIER HOLDINGS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes    CNC, FFT

### Introduction

On August 5, 2022 the Tenant filed an Application for Dispute Resolution, to challenge the One-Month Notice to End the Tenancy for Cause (the "One-Month Notice"). They also applied for reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the "Act") on January 3, 2023.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing. Each party confirmed they received the documents served by the other. The Tenant served the Notice of this Dispute Resolution to the Landlord, as well as document evidence. The Landlord duly served their own evidence to the Tenant within required timelines.

### Issues to be Decided

Is the Tenant entitled to cancellation or withdrawal of the One-Month Notice issued by the Landlord on July 29, 2022?

If they are unsuccessful, is the Landlord entitled to an order of possession pursuant to s. 55 of the *Act*?

Is the Tenant entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

## Background and Evidence

The Tenant provided a copy of the one-year tenancy agreement that they signed in July 2000. The Landlord pointed to the specific clause of the tenancy agreement covering conduct. This was the paragraph that the Landlord reproduced in their letter to the Tenant dated December 6, 2021.

The Landlord served the One-Month Notice to the Tenant on July 28, 2022 by attaching a copy to the door of the rental unit. The Tenant stated they received that document on July 29. The Landlord provided the move-out date of August 31, 2022. On page 2 the Landlord indicated the reasons:

- Tenant or a person permitted on the property by the tenant
  - significantly interfered with or unreasonably disturbed another occupant or the landlord
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely jeopardize a lawful right or interest of another occupant or the landlord
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The details section on the second page provides more information:

Tenant's roommate removed packages delivered for other tenants.

In the hearing, the Landlord described the events listed in the One-Month Notice, as above. They sent a letter to the Tenant, dated December 6, 2021 outlining "several times [the Tenant was] performing illegal activities throughout the building." This includes:

watching tenants through their mail slots, walking around hallways with a flashlight, looking for delivery packages in front of various suites, picking up the packages, reading the details on them, covering with a cloth like material units' peepholes to avoid being recognized, etc.

An incident in November 2021 involved the Tenant removing a package from in front of the resident manager's own door, when they covered the peephole camera with some sort of cloth. The second incident in June of 2022 saw the Tenant retrieve a package that was left in the lobby, one which did not belong to them. The Tenant made away with this package, and the building resident who was the addressee of that package

never received it. The Landlord provided evidence in the form of video footage for each of these incidents.

The Tenant described their own recollection of either of these incidents. For the former, they stated their intention was not to take the package in question, and that “if I really wanted to cover the peephole I would have done it better.” They only wanted to view the package closer, and then left it at the same door.

The Tenant in their written account described ongoing difficulties with sight. The Tenant was unable to discern the fine details on packages, and this led them to either take a quick picture of the label to examine it more closely later, or else retrieved the package fully, in error, due to the similarity of the printed label unit number to their own unit number.

Specific to the latter package retrieved, the Tenant then placed that box at the correct address once they clarified it was not theirs. Though the package went missing after they made the drop to the proper unit, the Tenant pointed out the Landlord was not able to provide other video footage that would show either when they returned the package, or someone else then obtaining the package from in front of the correct rental unit door.

The Landlord spoke to earlier incidents where the Tenant had used a flashlight in the fully lit hallways, for no discernible reason, and an earlier complaint of another resident who pointed to the Tenant as the person looking through their mail slot. The Landlord described these incidents only in answer to the Tenant who mentioned them in their submissions for this hearing.

The Landlord stated their ongoing concern with other residents’ packages in the future, without this issue yet being resolved.

### Analysis

The *Act* s. 47 provides various grounds for which a landlord may end a tenancy by issuing a One-Month Notice.

In this matter, the onus is on the Landlord to prove they have cause to end the tenancy.

The Landlord listed other incidents in their letter to the Tenant dated December 6, 2021. The Landlord did not list these incidents on the One-Month Notice; therefore, I find they

form no basis for the Landlord seeking to end the tenancy in late July 2022. The One-Month Notice specifies that details are needed in terms of dates, times, and particular information.

This leaves, as stated on the One-Month Notice in the details, the allegations of the Tenant removing packages delivered for other tenants. In summary, I find the Tenant has provided a reasonable explanation for this. The Landlord did not provide specifics on incidents on the One-Month Notice; however, I will afford each incident due consideration in the interest of fairness.

I find the Tenant provided a reasonable explanation for their mistake of taking away a package with a unit number very similar to their own. The Tenant has provided evidence of their challenges where they require a prescription. I find it more likely than not that they removed one package in error. I find the Tenant credible in their account that they then returned the package to the rightful owner's rental unit door in short order. The Landlord bears the onus to show the Tenant never returned the package and kept its contents; I find they have not met that burden, and in any event that would be a matter for the police should the allegation of theft of another's property be laid. It was not in this instance.

For the other incident involving the resident caretaker's own peephole camera and a different delivered package, I find the Tenant did not remove the package at all, and merely checked the details. The Landlord described the Tenant taking a picture of the label which, though unusual, is not something strictly prohibited. There was no evidence of the Tenant taking the package and not returning it.

I find that covering the peephole camera is not a ground for ending the tenancy. It is not repeated behaviour or any damage to other's property. In any case, covering the camera lens was not specified as a ground for ending the tenancy in the details section on the notice.

In sum, the very brief description on the One-Month Notice does not match to the grounds indicated by the Landlord on page 2. I find this invalidates the One-Month Notice, and the Tenant otherwise has offset the Landlord's burden of proof by providing their explanation for looking at the details on one package and removing one package only to set it back later.

I find the One-Month Notice is not valid. The Landlord has not met the burden of proof; I so order the One-Month Notice cancelled.

As the Tenant was successful in this application, I find the Tenant is entitled to recover the \$100.00 filing fee paid for this application. I authorize the Tenant to withhold the amount of \$100.00 from one future rent payment.

Conclusion

For the reasons above, I order the One-Month Notice issued on July 28, 2022 is cancelled and the tenancy remains in full force and effect.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: January 3, 2023

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Residential Tenancy Branch