



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding MEHSEM HOLDING LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNC MNRT MNDCT LRE FFT

### Introduction

This hearing was convened as a result of the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

- to cancel a 1 Month Notice to End Tenancy for Cause dated October 29, 2022 (1 Month Notice),
- for an order to suspend or set conditions on the landlords' right to enter the rental unit or site,
- for a monetary claim of \$1,550 for emergency repairs,
- for a monetary claim of \$10,000 for financial losses during and after COVID-19,
- recovery of the cost of the filing fee.

The parties attended the teleconference hearing and provided affirmed testimony. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing. I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision.

As both parties confirmed having received and reviewed the documentary evidence from the other party, I find both parties were sufficiently served in accordance with the Act.

### Preliminary and Procedural Matters

Rule 2.3 of the RTB Rules authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on their application, the most urgent of which is the application to cancel the 1 Month

Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to cancel the 1 Month Notice and the filing fee at this proceeding. The balance of the tenants' application is dismissed, with leave to re-apply.

In addition, the parties confirmed their email addresses during the hearing and confirmed their understanding that the decision would be emailed to the parties. If an order is granted, it will be emailed to the appropriate party for service on the other party.

### Issues to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?
- If yes, are the tenants entitled to the recovery of the cost of the filing fee under the Act?
- If no, is the landlord entitled to an order of possession under the Act?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on February 1, 2022 and converted to a month-to-month tenancy after January 31, 2023. Monthly rent is \$5,000 per month and is due on the first day of each month.

The landlord testified that the tenants do not occupy the rental unit and instead have been subletting rooms out for rent under single occupancy agreements.

The tenants write in their application that they received the 1 Month Notice on November 2, 2022. The tenants filed their application to dispute the 1 Month Notice on November 11, 2022. The 1 Month Notice lists 3 causes as follows:

Reason for this One Month's Notice to End Tenancy: (check all boxes that apply)	
<input checked="" type="checkbox"/>	Tenant has allowed an unreasonable number of occupants in the unit/site/property/park.
<input checked="" type="checkbox"/>	Tenant or a person permitted on the property by the tenant has (check all boxes that apply):
<input type="checkbox"/>	significantly interfered with or unreasonably disturbed another occupant or the landlord.
<input type="checkbox"/>	seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
<input checked="" type="checkbox"/>	put the landlord's property at significant risk
<input checked="" type="checkbox"/>	Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

The Details of Cause(s) are listed as follows:

<b>Details of Cause(s): Describe what, where and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided.</b>		
<b>Details of the Event(s):</b>		
-No up keep with the garbage bins, garbage has been thrown all over the property which has attracted rats causing a rat problem.		
-Loud parties as reported by both neighbors.		
-Front and back metal gates have been completely destroyed, [REDACTED]		
-The rental home has not been properly upkeep and is very messy, carpets have been badly damaged.		
-Fire in basement bedroom, that has caused significant damage.		
-More than 8 tenants in the home as agreed in the rental agreement.		
-The carpets are destroyed beyond repair		
-Majority of the windows screens have been bent or missing.		

The landlord was asked to present the evidence related to the fire listed on the 1 Month Notice first. The landlord testified that in September or October 2022 when they attended the rental unit a person occupying that bedroom advised them that there had been a fire and that nothing had been done about it and showed them the bedroom for evidence. The landlord testified that they took the photo submitted evidence, which was reviewed during the hearing. The photo clearly shows black soot on two walls and the ceiling.

The tenants were asked to respond to that photo evidence. Tenant 2 testified that they were not made aware by their tenant of a fire and said the photo looks like their were cooking and that some smoke occurred during cooking. The tenants were asked when they received the application from the landlord if they inspected the rental unit at all to determine if there was a fire and Tenant 1 stated they were not sure as their brother went there but could not confirm if that bedroom was specifically checked. The tenants were asked about the dates they inspected the home they were renting and claimed they "don't remember."

At this point in the hearing, the tenants were advised that arbitrator found the photo evidence was not consistent with cooking as it was a bedroom and not a kitchen. Furthermore, the arbitrator viewed significant soot in the bedroom causing obvious damage to the rental unit. Tenant 2 stated the arbitrator was biased and unfair to which the arbitrator replied that the photo evidence supports the 1 Month Notice and that I did not need to hear further from the tenants or landlord as the tenants' testimony was inconsistent with the photo evidence, which will be addressed further below.

As tenant 2 continued to interrupt the arbitrator, the tenants were advised they were being muted pursuant to RTB Rule 6.10. The landlord was informed that an order of possession was being granted due to sufficient evidence being supplied to support the 1 Month Notice. The tenants then disconnected a few seconds later. The landlord then asked a few questions, which were answered before the hearing was concluded 2

minutes later. The landlord confirmed that rent for March has been paid and that the post-dated cheque for April rent has not been cashed by the landlord.

The hearing lasted a total of 27 minutes.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find the tenants were not credible as their testimony contradicted the photographic evidence of the bedroom damage. Secondly, I find the landlord was credible as the photographic evidence supports that there was a fire in the rental unit bedroom, which I find the tenants were responsible for as they invited the occupant of that bedroom into the rental unit. I disagree with the tenants that I was biased in any way as I find there was no need to continue the hearing to address the other causes listed as the fire alone supports the 1 Month Notice and the tenants provided inconsistent testimony when responding to the bedroom photo of the fire damage.

Section 55 of the Act applies and states:

#### **Order of possession for the landlord**

**55(1)** If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and**

(b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[emphasis added]

I have reviewed the 1 Month Notice and find that it complies with section 52 of the Act. Therefore, I grant the landlord an order of possession pursuant to section 55 of the Act **effective March 31, 2023 at 1:00 PM**. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

I find the tenancy ended on December 1, 2022, which was the effective vacancy date listed on the 1 Month Notice.

I decline to grant the filing fee as the tenants' application has been dismissed.

### Conclusion

The tenants' application to cancel the 1 Month Notice to End Tenancy for Cause has been dismissed. The 1 Month Notice issued by the landlord has been upheld.

The landlord has been granted an order of possession effective March 31, 2023 at 1:00 PM. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

This decision will be emailed to both parties. The tenancy ended December 1, 2022.

The order of possession will be emailed to the landlord only for service on the tenants.

If the tenants fail to comply with the order of possession, the tenants are cautioned that they can be held liable for all costs related to the enforcement of the order of possession, including but not limited to court costs and bailiff fees.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: March 24, 2023

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Residential Tenancy Branch