



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNL, FF

Introduction

This hearing was scheduled to hear the tenant's application to cancel a *2 Month Notice to End Tenancy for Landlord's Use of Property* and recovery of the filing fee. Both parties appeared at the hearing and were provided the opportunity to be heard with respect to the Notice in dispute.

The parties tried to raise issues that were not relevant to the Notice and I refused to hear those issues. Rather, the parties were encouraged to discuss those issues on their own and if they cannot resolve them to make separate applications for dispute resolution.

It should also be noted that the parties, in particular the tenant, had to be cautioned about appropriate conduct at the hearing with respect to interrupting the other party, interrupting the Dispute Resolution Officer and using names intended to antagonise the other party.

Issues(s) to be Decided

1. Validity of Notice to End Tenancy.
2. Amending Notice to End Tenancy.
3. Mutual agreement between parties.
4. Award of filing fee.

Background and Evidence

Upon hearing from both parties and upon review of the *2 Month Notice to End Tenancy for Landlord's Use of Property* (the Notice), I make the following findings. The tenant was served with the Notice by way of the landlord taping it to the tenant's door on May 29, 2009. The landlord indicated the effective date was August 1, 2009 on the Notice and did not indicate the reason the landlord was ending the tenancy in the space provided on the second page of the Notice.

The landlord acknowledged she failed to indicate a reason on the second page of the Notice but contended that she verbally told the tenant her daughter would be moving in to the rental unit. The tenant acknowledged that the landlord had mentioned the landlord's daughter moving in but only in response to the tenant's refusal to pay more rent. However, the tenant also stated that he will be moving out of the rental unit by the end of the month and has not paid rent for July 2009 in acceptance of the Notice.

During the hearing, the landlord requested an Order of Possession based on the unpaid rent for June; however, that matter was not before me for this hearing. The landlord also submitted that the 2 Month Notice is of no effect because the tenancy ended by way of a *10 Day Notice to End Tenancy for Unpaid Rent* that was allegedly served in June 2009. Since the 2 Month Notice was issued in May 2009 I found the tenancy was in effect at the time it was served and the tenant still entitled to one month of compensation for the 2 Month Notice under section 51 of the Act.

As the tenant expressed a desire to accept the 2 Month Notice and vacate the rental unit by the end of the month, the parties agreed that the 2 Month Notice should be amended to indicate the reason the tenancy is ending is because a "close family member of the landlord intends in good faith to occupy the rental unit" in accordance with section 49(3) of the Act. The landlord was informed of the requirements for the landlord's close family member to move in to the rental unit within a reasonable time after the tenancy ends and the tenant's right to claim additional compensation if the landlord does not fulfill the reason for ending the tenancy.

Analysis

The legislation permits a Dispute Resolution Officer to assist parties in settling their dispute and to amend a Notice to End Tenancy where reasonable in the given circumstances. In this case, I find it in the best interests of both parties to end the tenancy and I accept the parties' agreement to amend the 2 Month Notice to End Tenancy for the reason that the landlord's close family member intends to move in to the rental unit and to treat the Notice as valid. Therefore, the tenant is entitled to one month of compensation during the last month of his tenancy in accordance with section 51(1) of the Act. Should the landlord fail to fulfill the reason for ending the tenancy within a reasonable amount of time, the tenant may be entitled to additional compensation under section 51(2) of the Act.

Since the tenant has given notice during this hearing that he will vacate the unit by the end of this month and the landlord had requested an Order of Possession, I grant the landlord an Order of Possession effective July 31, 2009. The landlord must serve the tenant the Order of Possession to enforce it and may file it in The Supreme Court of British Columbia.

I grant the tenant's request to recover the filing fee from the landlord. The landlord is hereby Ordered to pay the tenant \$50.00 forthwith. The tenant is provided a Monetary Order to enforce payment by serving it upon the landlord. The tenant may also file the



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Monetary Order in the Provincial Court (Small Claims) to enforce as an Order of the court.

Conclusion

The *2 Month Notice to End Tenancy for Landlord's Use of Property* is amended to reflect the reason for ending the tenancy is that the landlord's close family member intends to reside in the rental unit. The tenant gave notice to vacate by July 31, 2009 and the landlord is provided an Order of Possession effective July 31, 2009.

The tenant is awarded the filing fee and provided a Monetary Order in the amount of \$50.00 to serve upon 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: July 10, 2009.

Dispute Resolution Officer