



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

CNE & FF

Introduction

This hearing dealt with an application by the tenant disputing a one month Notice to End Tenancy served pursuant to section 48 of the *Act*. Section 48 of the *Act* provides that a one month notice to end tenancy can be served where:

- 48** (1) A landlord may end the tenancy of a person employed as a caretaker, manager or superintendent of the residential property of which the rental unit is a part by giving notice to end the tenancy if
- (a) the rental unit was rented or provided to the tenant for the term of his or her employment,
 - (b) the tenant's employment as a caretaker, manager or superintendent is ended, and
 - (c) the landlord intends in good faith to rent or provide the rental unit to a new caretaker, manager or superintendent.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

Issues(s) to be Decided

Is the one month Notice to End Tenancy pursuant to section 48 valid?

Should the landlord be granted an Order of Possession of the rental unit?

Background and Evidence

This tenancy began on May 1, 1996. As part of the tenancy agreement the tenancy agreement provided that:

This tenancy is conditional upon fulfillment of your duties as Caretaker and will terminate on the date that your employment terminates.

[Reproduced as Written]

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Both parties agreed that the rental unit was provided as part of the terms of the tenant's employment and was represented as 25% of the value of the tenant's salary. The current value of the rent based on the tenant's salary is \$560.00. No security deposit was paid by the tenant.

The tenant's employment with the landlord was terminated effective June 29, 2009 and on June 30, 2009 the landlord posted a one month Notice to End Tenancy for End of Employment by posting it to the door of the tenant's rental unit.

The tenant argued that she was not provided with notice of the tenancy ending because it was not deemed served until July 2, 2009 and due to significant hardships was seeking an agreement with the landlord to mutually end the tenancy effective September 15, 2009. The tenant did not make any arguments or present any evidence to invalid the notice to end tenancy or to dispute that the employment had not ended and that the rental unit was not going to be used by a new employee.

The landlord stated that they have also experienced significant hardship with the loss of the resident manager/caretaker and had a new employee who required the rental unit as part of their conditions of employment. The landlord requested an Order of Possession effective August 31, 2009.

Analysis

I find that the tenant has not provided any evidence to show that the one month Notice to End Tenancy due to End of Employment with Landlord is not valid. I accept the evidence of the landlord which establishes that the tenant's employment has ended and the rental unit was provided as a term of her employment.

I find that the requirements of section 48 of the *Act* have been met and the notice to end tenancy is valid and deny the tenant's application.

As the notice was posted on the tenant's door it is not deemed to have been received until July 2, 2009 pursuant to section 90 (b) of the *Act*. Pursuant to section 53 of the *Act* I will correct the effective date of the notice to August 31, 2009.

I grant the landlord an Order of Possession effective **August 31, 2009 at 1:00 p.m.** This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.



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Conclusion

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*. I have dismissed the tenant's application disputing the notice to end tenancy as I have determined the notice is valid. The landlord has been issued an Order of Possession.

Dated: August 20, 2009.

Dispute Resolution Officer