



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNL & CNE

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This is a request to have a Notice to End Tenancy for landlord use of property cancelled, and a request to have a Notice to End Tenancy that was given due to tenant's employment with landlord ending, cancelled.

### Decision and reasons

The applicant was employed as a caretaker and her rental unit was supplied as a caretaker unit however on September 29, 2009 her employment was terminated effective October 31, 2009 and originally she was given a section 49 Notice to End Tenancy for landlord use stating that the rental unit will be occupied by the landlord or landlords spouse or close family member. However at the hearing counsel for the landlord stated that there was never any intention for the landlord, landlord spouse or close family member to move into the rental unit.

Therefore it is my finding that the section 49 Notice to End Tenancy given by the landlords is not a valid notice and it is therefore set aside.

The landlords have also subsequently, on November 5, 2009, given the tenant a section 48 Notice to End Tenancy that states that the tenant's rental unit is part of an employment arrangement that has ended and the unit is needed for a new employee.

Counsel for the landlord stated that:

- The dispute unit is a designated caretaker suite and since the applicant's employment has been terminated they need the suite for the new caretaker.
- The tenant has had more than enough time to find new accommodation and vacate the rental unit and therefore they want an Order of Possession issued for December 31, 2009.
- They need to move a caretaker in as soon as possible, as winter months are a very active time for the caretaker.

The applicant's daughter stated that:

- They do not dispute that this rental unit is designated for the caretaker, however they are requesting more time for the applicant to vacate.
- This is a very difficult time for her mother because she has been notified that she is losing her job and her home all in one notification and she needs more time to find a new job and new accommodations.
- Counsel for the landlords had offered to allow her to stay to the end of January 2010 under certain conditions which her mother did not accept however they believe that indicates that the unit is not needed until the end of January 2010.

The applicants are therefore requesting that they be allowed to stay to the end of January 2010.

Analysis

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Ministry of Housing and Social Development

Section 48 of the residential tenancy act allows a landlord to end the tenancy when a rental unit is part of the employment arrangement and that employment has ended, and that is the case in this matter.

The applicant's employment as caretaker was terminated effective October 31, 2009 and the unit she is in is the designated caretaker's unit in this building.

Therefore the one month Notice to End Tenancy given by the landlords to the tenant on November 5, 2009 is a valid notice and I will not set aside; however the end of tenancy date on the notice is not a valid date. The landlords put December 10 as the end of tenancy date however any notice served in the month of November 2009 has an effective end of tenancy date of December 31, 2009.

## Conclusion

The section 49 Notice to End Tenancy is cancelled.

I dismiss without leave to reapply, the request to cancel the section 48 Notice to End Tenancy and have issued an Order of Possession to the landlords for 1 p.m. December 31, 2009.

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 30, 2009.

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Dispute Resolution Officer