



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      Tenant   CNE,  
Landlord   OPR, OPC, OPB

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking an Order of Possession.

The Tenants filed to obtain an order to cancel the Notice to End Tenancy.

Service of the hearing documents by the Landlord to the Tenant were done by personal delivery and by registered mail on August 31, 2011 in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlord were done by registered mail on September 2, 2011 in accordance with section 89 of the Act.

Both the Landlord and the Tenant confirmed that they he received the other parties hearing packages.

### Issues to be Decided

Landlord:

1. Is the Landlord entitled to an Order of Possession?

Tenant:

1. Is the Tenant entitled to an Order to Cancel the Notice to End Tenancy?

## Background and Evidence

This tenancy started on March 27, 2010 as a month to month tenancy. Employment of the Tenants on the property was agreed to as the rent payment. The Landlord submitted an employment agreement as evidence, but it is not signed. The Landlord said it was a mistake that it was not completed prior to the Tenants moving in. The Tenant did not pay a security deposit.

The Landlord continued to say that the Tenants were hired as care takers of the property on March 27, 2010 and the agreement was that they could live in the residents for free if they maintained the property. The Landlord said the Agent N.M. for the Tenants was the previous manager of the grounds and he was responsible to complete the employment agreement and tenancy agreement. The Landlord said the agreements were completed correctly. The Landlord continued to say the Tenant was given a letter to end employment and to end the tenancy effective May 31, 2011. As well the Landlord said they issued a 10 Day Notice to End Tenancy on July 5, 2011 and a 1 Month Notice to End Tenancy for End of Employment dated August 11, 2011. The Notice to End Tenancy dated August 11, 2011 is a result of the end of employment between the Tenant and the Landlord referred to in the Landlord's letter from May, 2011. The Landlord requested an Order of Possession as soon as possible.

The Tenant said he did receive the letter from the Landlord ending their employment and the tenancy and he said they understood the employment was ended on May 31, 2011. The Tenant said they have not done any work on the property since May 31, 2011. The Tenant continued to say that they are disputing the end of the tenancy first because it was originally on the wrong form, secondly because the 10 Day Notice to End Tenancy was based on unpaid rent of \$1,200.00 and unpaid utilities of \$400.00 which there was no agreement for neither in writing or verbally. The Tenant said there was a previous dispute hearing on August 9, 2011, in which the 10 Day Notice to End Tenancy was cancelled. The Tenant continued to say they are disputing the 1 Month Notice to End Tenancy because they believe they were wrongly dismissed from the position as caretaker of the property.

## Analysis

Section 48 of the Act says:

**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.

(2) An employer may end the tenancy of an employee in respect of a rental unit rented or provided by the employer to the employee to occupy during the term of employment by giving notice to end the tenancy if the employment is ended.

(3) A notice under this section must end the tenancy effective on a date that is

(a) not earlier than one month after the date the tenant receives the notice,

(b) not earlier than the last day the tenant is employed by the landlord, and

(c) the day before the day in the month, or in the other period on which the tenancy is based, that rent, if any, is payable under the tenancy agreement.

(4) A notice under this section must comply with section 52 [*form and content of notice to end tenancy*].

(5) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(6) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

From the testimony of both the Landlord and the Tenant; I find that a tenancy agreement was established between them whether verbal or written and there was an agreement between them that the Tenants' employment with the Landlord would be compensation to the Landlord for the rental of the house on the property. I accept the Landlord's evidence and testimony that the employment agreement end on May 31, 2011. As well I accept the Tenant's testimony that the employment agreement with the Landlord ended on May 31, 2011 and the Tenant has not work for the Landlord since May 31, 2011. Consequently, I find the Landlord has established grounds to end the tenancy for the reason that the employment arrangement with the Tenants has ended. As the tenancy agreement was part of the employment agreement; I find the tenancy agreement ended at the same time as the employment agreement May 31, 2011.

I find for the Landlord and have issued an Order of Possession with an effective vacancy date of September 30, 2011.

In addition I dismiss the Tenants' application without leave to reapply as the Tenants have not established grounds to dispute the 1 Month Notice to End Tenancy for End of Employment dated August 11, 2011.



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## Conclusion

An Order of Possession effective September 30, 2011 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia.

The Tenants' application is dismissed without leave to reapply.

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*.

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Residential Tenancy Branch