



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNE. OPE, FF

Introduction

This was a hearing with respect to applications by the tenant and by the landlord. The hearing was conducted by conference call. The tenant participated in the hearing and the landlord was represented by the three named representatives. The tenant applied to cancel a one month Notice to End Tenancy for end of employment and the landlord applied for an order for possession pursuant to the Notice to End Tenancy .

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Is the landlord entitled to an order for possession and if so when should the order be effective?

Background and Evidence

The rental property is a high rise apartment building in Victoria. The tenant was an employee of the landlord from in or about 2000 until his employment was terminated effective immediately on December 19, 2012. At the same time that the tenant was notified that his employment had ended he was given a one month Notice to End Tenancy for end of employment. The Notice to End Tenancy required him to move out of the rental unit by January 31, 2013 on the ground that the tenant's rental unit was part of an employment arrangement that has ended the rental unit was needed for a new employee.

The landlord's representative testified that the rental unit is a ground floor one bedroom apartment; the only other ground floor apartment is a bachelor apartment. The landlord's representative testified that the landlord will hire a new live-in night manager and the landlord requires this person to live on the main floor of the building near the office. The landlord testified that the tenant's rental unit is the only suitable apartment. The landlord submitted other evidence not relevant to the ground for ending the

tenancy. Most of the landlord's written submissions consisted of documents directed at establishing that the tenant's actions over time constituted cause to end the tenancy.

The tenant applied to dispute the Notice to End Tenancy. He said that the rental unit was not part of his employment arrangement and he testified that there were many vacancies in the apartment building and the landlord could select any one of a number of vacant apartments to house a new employee. The tenant said that it was only after he was hired as an employee that he moved into the building of his own accord. He occupied a main floor bachelor apartment until the landlord performed office renovations and created the one bedroom unit that he now occupies. The tenant suggested that the landlord does not intend to hire someone to replace him; he said that the landlord acknowledged that it did not have cause to fire him and simply fired him because his services were no longer needed because they were now using security guards.

The landlord's representative testified that the tenant did receive a monthly rent subsidy of \$100.00 and his rental unit on the main floor was part of his employment arrangement and the rent discount was set out in the tenancy agreement made on October 1, 2002. The landlord's representatives affirmed that they have a daytime manager that lives elsewhere in the building and that a new live-in night manager will be hired who, for security reasons, will live in the main floor rental unit now occupied by the tenant.

The tenant also said that he had not located any other accommodation and due to his current health problems he was unable to move out of the rental unit by January 31st.

Analysis and conclusion

The landlord's representatives testified that the landlord is waiting for the rental unit to be vacant before hiring a new live-in night manager. Although the landlord has not asserted cause for ending the tenant's employment, it is within the landlord's prerogative to end the tenant's employment without cause and to hire a new employee to replace him. I have no jurisdiction over the employment relationship between the parties and the tenant is free to seek a remedy with respect to the end of his employment in some other forum, but that is a wholly separate matter from the end of his tenancy.

I accept the landlord's evidence that the rental unit is required as accommodation for a live-in night manager who will be hired after the tenant vacates the rental unit. Although the tenancy began after the commencement of the tenant's employment, the rental unit

was created as part of the landlord's renovation of the office for the building and it has been used as the night manager's apartment for many years. I find that the Notice to End Tenancy for end of employment was validly given and I dismiss the tenant's application to cancel the Notice to End Tenancy. The tenancy will end pursuant to the Notice and the landlord is entitled to an order for possession as requested, but in light of the tenant's health problems and the fact that he has not secured other accommodation I find that the order should be effective on February 28, 2013, after service on the tenant. The tenant is of course obliged to pay rent for the month of February. This order may be registered in the Supreme Court and enforced as an order of that court. The landlord is entitled to recover the \$50.00 filing fee for its application.

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: January 24, 2013

Residential Tenancy Branch

