



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Metropolitan Towers Development Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, OLC, FF

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by one of the tenants and an agent of the landlord.

I clarified with the applicant tenant at the outset of the hearing that despite applying to cancel a notice to end tenancy for cause the landlord had issued a 1 Month Notice to End Tenancy relating to the ending of employment with the landlord and not for cause and as such she should have applied to cancel a 1 Month Notice to End Tenancy for End of Employment. As a result, I amended the tenants' Application.

During the hearing, the landlord did not verbally request an order of possession should the tenants be unsuccessful in their Application.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for End of Employment and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 47, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agreed the male tenant began employment, as Assistant Building Manager, with the landlord on September 1, 2010 and as a result of that employment the tenant and his wife were provided a rental unit in another building in the landlord's property for a monthly rent of \$930.00. A copy of this tenancy agreement was not provided into evidence.

The employment agreement includes a clause (2.3) that stipulates that should the male tenant's employment with the landlord end the tenancy would also end on the effective date of the end of employment or on a day after any period of notice required by law.

The parties also agree that on February 3, 2011, while the male tenant was still employed by the landlord, the tenants rented a different rental unit from the landlord in a different building (the dispute address) for a monthly rental of \$1,900.00 due on the 1<sup>st</sup> of each month. A copy of this tenancy agreement was provided as evidence.

This tenancy agreement stipulated in clause 42 Other that: "Rent reduction in the amount of \$700.00 per month will be applied as employee benefit during the term of employment. Should [sic] employment contract be terminated for whatever reason, this rent reduction will be void." There is no indication in this tenancy agreement of any requirement to vacate the rental unit if employment is terminated.

The parties agreed that the second rental unit had been chosen by the tenants and approved by the landlord. The landlord also confirmed that there were several current vacancies on the residential property.

During the hearing the tenant indicated that moving would have a substantial impact on her health and that she has medical documentation to confirm this, however none was provided as evidence in the hearing. The landlord's agent testified that if the tenant provided him with this documentation he would agree to continue the tenancy.

### Analysis

Section 48 of the *Act* allows a landlord to end a tenancy of a person employed as a caretaker, manager, or superintendent of a 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.

In the case before me, I accept that when the male tenant's employment began the landlord provided him with a rental unit specifically identified in the employment contract.

However, as the tenants moved to another rental unit I find that the tenants were no longer renting the unit that was provided for specifically in the employment contract and neither party indicated that the employment contract had been updated when the tenants moved to the new rental unit. While the landlord provided a rent reduction for the new rental unit there is nothing in the new tenancy agreement that stipulates that the rental unit must be vacated by the tenants should the male tenant's employment end.

I therefore find that the landlord has provided no evidence that the current unit was provided for the specific term of the male tenant's employment but rather that the landlord allowed only a reduced rent for the period of his employment.

As such, I find the landlord cannot end this tenancy as result of the end of the male tenant's employment.

### Conclusion

I therefore grant the tenants' Application and cancel the 1 Month Notice to End Tenancy for End of Employment and find the tenancy remains in full force and effect.

I find the tenants are entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid for this application. I order the tenants may retain this amount from a future rent payment in accordance with Section 72((2)(a).

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: April 29, 2013

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Residential Tenancy Branch

