



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOYLAKE DEVELOPMENT HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Landlord: OPE, FFL Tenant: CNE, LAT, OLC, LRE, FFT

Introduction

On September 10, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) to cancel a One-Month Notice to End Tenancy for End of Employment, for an order to change the locks of the rental unit, to restrict the Landlord’s entry, for the Landlord to comply with the Act and to be compensated for the cost of the filing fee.

On September 14, 2018, the Landlord submitted an Application for Dispute Resolution under the Act. The Landlord requested an Order of Possession for end of employment and to be compensated for the cost of the filing fee. The Landlord’s Application was crossed with the Tenant’s Application and the matter was set for a participatory hearing via conference call.

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

At the beginning of the hearing, the Tenant agreed that his priority issue was to determine whether the tenancy would continue or not. As a result, and in accordance with Section 64(3) of the Act, I have amended the Tenant’s Application by severing the issues for an order to change the locks of the rental unit, to restrict the Landlord’s entry and for the Landlord to comply with the Act, from the Tenant’s Application.

Issues to be Decided

Landlord:

Should the Landlord receive an Order of Possession for the rental unit, in accordance with Section 55 of the Act?

Should the Landlord be compensated for the filing fee, in accordance with Section 67 of the Act?

Tenant:

Should the One-Month Notice to End Tenancy for End of Employment, dated August 30, 2018 (the "Notice") be cancelled, in accordance with Section 48 of the Act?

Should the Tenant be compensated for the filing fee, in accordance with Section 67 of the Act?

Background and Evidence

The Landlord and the Tenant agreed on the following terms:

The Landlord's employment of the Tenant commenced on April 1, 2018. The Tenant was employed as an assistant resident manager of the residential property. A term of the employment included that the rental unit would be provided to the Tenant by the employer to occupy during the term of employment. The rental unit, referred to as the "staff suite" in the offer of employment, was included as part of the Tenant's pay and considered a benefit subsidy, with a market rent value of \$1,950.00 per month.

The Landlord testified that the Tenant was terminated from his job on July 31, 2018. The Tenant received a final paycheque in mid-August of 2018 that included payment in lieu of notice for his termination.

The Landlord stated that the Tenant did not appear as if he was going to vacate the rental unit by the end of August; therefore, the Landlord personally served the Notice to the Tenant on August 30, 2018. The Notice indicated a move-out date of September 30, 2018. The Landlord pointed out that on page 2 of the Notice, that the Notice was being issued for the reasons that the Tenant's rental unit was a part of the Tenant's employment as an assistant manager, that the Tenant's employment has ended, and the Landlord intends to provide the rental unit to another assistant manager. The Landlord also stated that the Tenant's rental unit was provided by the Landlord (employer) to the Tenant (employee) to occupy during the term of the employment and the employment has ended.

The Landlord stated that the Tenant's employment ended on July 31, 2018, that the Landlord is intending on hiring another assistant manager for the residential property; however, because the Tenant has not vacated the rental unit, the new hiring has been delayed. The Landlord confirmed that he has not been paying the Tenant since August 2018 and that the Tenant has not paid any rent for September or October 2018. The Landlord is requesting an Order of Possession for the rental unit.

The Tenant stated that he should not have been terminated from his job and that he is currently dealing with a WorkSafe BC claim in this regard. The Tenant agreed that he received the Notice on August 30, 2018.

Analysis

The Landlord testified that he served the Notice to the Tenant based on Section 48(1) of the Act that states that a Landlord may end the tenancy of a person employed as a (assistant) manager of the residential property of which the rental unit is a part, by giving notice to end tenancy if the rental unit was provided to the Tenant for the term of his employment, the Tenant's employment as a (assistant) manager is ended, and the Landlord intends in good faith to provide the rental unit to a new (assistant) manager. Section 48(2) of the Act states that an employer may end the tenancy of an employee in respect of a rental unit 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.

I accept the Landlord's undisputed evidence that the rental unit was provided to the Tenant for the term of his employment and that the Tenant's employment ended on July 31, 2018. I find that the Landlord served the Notice to the Tenant in accordance with the Act and that the Notice complied with Section 52 of the Act.

The Tenant disputed the Notice and applied for Dispute Resolution to cancel the Notice; however, the Tenant failed to provide sufficient evidence as to the reasons why the Notice should be cancelled. As such, I dismiss the Tenant's Application without leave to reapply.

Upon review of the testimony and evidence in this case, I find that the Landlord's Notice and the reasons for the issuance of the Notice are valid. In accordance with Section 55 of the Act, I issue the Landlord an Order of Possession for the rental unit, valid two days after it is served on the Tenant.

I find that the Landlord's Application has merit and that the Landlord should be compensated for the cost of the filing fee in the amount of \$100.00.

Conclusion

Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective two days after notice is served on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to Section 67 of the Act, I grant the Landlord a Monetary Order for \$100.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: October 26, 2018

Residential Tenancy Branch