



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Whistler Blackcomb Holdings
Inc. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNE, FFT**

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- An order to cancel a one month notice to end tenancy for end of employment pursuant to sections 48 and 55; and
- Authorization to recover the filing fee for this application from the opposing party pursuant to section 72.

The landlord attended the hearing, represented by employee housing manager, CJ and counsel, MV. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Landlord's counsel acknowledged being served with the tenants' Application for Dispute Resolution Proceedings Package and stated she had no issues with timely service of documents.

The applicant/tenant did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 11:00 a.m. and concluded at 11:15 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference. At the commencement of the hearing, landlord's counsel advised me that just prior to the hearing, the tenant called her office. Landlord's counsel told the tenant to disconnect and call the number provided on the Notice of Dispute Resolution Proceedings to participate in the hearing. No additional parties joined the teleconference hearing between 11:00 and 11:15.

Preliminary Issue

The landlord's representative advised me that the landlord's full corporate name includes "Inc." at the end of the name provided on the tenant's Application for Dispute Resolution. Pursuant to Section 64(3)(c) of the *Act* as well as Rule 4.2 of the

Residential Tenancy Branch Rules of Procedure, the landlord's name was amended to reflect the name as shown on the cover page of this decision.

Issue(s) to be Decided

Should the notice to end tenancy be upheld or cancelled?

Background and Evidence

The tenant did not attend to present any evidence regarding the merits of his application for me to consider.

The landlord gave the following undisputed testimony. The tenant was employed by their company and was housed at staff housing since housing is difficult to find in the resort town. On March 29th, the resort was ordered to completely shut down due to an outbreak of Covid-19. Due to the shutdown, the tenant's employment was terminated on April 9, 2021. The landlord provided the tenant's record of employment as evidence.

The landlord/tenant relationship between the parties was governed by an occupancy agreement which states the House (employee housing) may terminate the tenant's stay in the event of a termination of employment by the landlord company. The landlord served the tenant with a One Month Notice to End Tenancy for End of Employment on April 16, 2021 by emailing it to the email provided as an address for service of the tenant. A signed proof of service document was provided as evidence.

The landlord submits that the tenant only made a single attempt at applying for a summer position and the company declined the application. In all of 2021, the tenant only sought two positions: the one the landlord terminated after the Covid-19 shutdown and the second one that was declined. As of today's date, the tenant is not employed by the company and the tenant has not paid any rent. Currently, the tenant is over \$3800.00 in arrears of rent.

Analysis

Pursuant to section 43 of the Residential Tenancy Regulations and sections 88 and 90 of the *Act*, the tenant is deemed served with the notice to end tenancy on April 19, 2021, three days after it was sent via email to the tenant's email address for service. The tenant filed to dispute the notice to end tenancy on April 26, 2021, within the 10 day timeline as required by section 48(5) of the *Act*.

Section 48 states:

48 Landlord's notice: end of employment with the landlord

(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.

The tenant did not attend the hearing to present any evidence or testimony to contradict the landlord's evidence. Based on the landlord's undisputed evidence, I find the landlord ended employment with the tenant on April 9, 2021. The tenant has not been an employee of the landlord's company since that time.

I accept that the tenant's housing was predicated on the tenant being an employee of the landlord company and that the parties agreed in writing that the housing would be terminated if the tenant were no longer an employee of the landlord/company. I further accept the landlord's undisputed submission that housing in the resort community is difficult to come by and that the landlord company requires the staff housing units for the exclusive use of their employees. As such, pursuant to section 62(2) of the *Act*, I find that the landlord had the right to end the tenancy at the employee housing building at the end of the tenant's employment, even though the tenant was not a caretaker, manager or superintendent of a residential property. I uphold the landlord's 1 month notice to end tenancy for end of employment. The tenant's application to cancel it is dismissed without leave to reapply.

Section 55 states that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*]. I have examined the notice to end tenancy and find it fully complies with the form and content provisions of section 52. As the effective date stated on the notice to end tenancy has passed, the landlord is entitled to an order of possession effective two days after service upon the tenant.

As the tenant's application was not successful, the tenant is not entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in the Supreme Court of British Columbia.

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: August 30, 2021

Residential Tenancy Branch