



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards  
A matter regarding CENTURION PROPERTY ASSOCIATES  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      **CNE, MNDCT, FFT**

### Introduction

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

1. Cancellation of the Landlord's One Month Notice to End Tenancy for End of Employment (the "One Month Notice") pursuant to Sections 48 and 62 of the Act;
2. An Order for compensation for a monetary loss or other money owed pursuant to Section 67 of the Act; and,
3. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord's Agents, AB and CR, Landlord's Legal Counsel, and the Tenants attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The RTB issued the Notice of Dispute Resolution Proceeding package to the Tenants on May 18, 2022 (the "NoDRP package"). The Tenants confirmed that they served the Landlord with the NoDRP package and their evidence for this hearing by email. The Landlord confirmed receipt of the NoDRP package and the evidence from the Tenant. I find that the Landlord was sufficiently served with the Tenants' NoDRP package and evidence on May 21, 2022 in accordance with Section 71(2)(b) of the Act.

### Issues to be Decided

1. Are the Tenants entitled to cancellation of the Landlord's One Month Notice?
2. Are the Tenants entitled to an Order for compensation for a monetary loss or other money owed?
3. Are the Tenants entitled to recovery of the application filing fee?

### Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on March 1, 2022. The fixed term was to end on February 28, 2023. Monthly rent was \$1,875.00 payable on the first day of each month. A security deposit of \$937.50 was collected at the start of the tenancy and is still held by the Landlord.

The One Month Notice stated the reason the Landlord was ending the tenancy was because the tenant's rental unit is part of the tenant's employment as a ... manager ... of the property, the tenant's employment has ended, and the landlord intends to rent or provide the rental unit to a new caretaker, manager or superintendent. The effective date of the One Month Notice was May 31, 2022.

The Landlord provided further details of the causes to end this tenancy as:

*End of employment where a rental unit is part of the tenant's employment as a caretaker, manager or superintendent of the property. The tenant's employment has ended as of April 29<sup>th</sup>, 2022.*

The Tenants confirmed receipt of the One Month Notice.

Tenant DB was an employee of the Landlord acting as a community manager of all the Landlord's properties including the residential property the Tenants resided in prior to receiving the One Month Notice. Tenant DB was offered the rental unit at a discounted rental amount as part of her benefits of employment with the Landlord.

At the outset of the hearing, the parties stated that the Tenants have moved out of the rental unit. The Tenants confirmed they moved out on May 31, 2022 but they are still disputing the One Month Notice and the amount of payment offered. The Landlord said the Tenants have not paid rent since May 2022.

The Tenants did not inform the Landlord that they were vacating the rental unit, but the Landlord was informed by other tenants that they observed the Tenants vacating the residential property. The Landlord posted a notice that they intended to do an inspection in the rental unit, and on June 3, 2022 when the inspection was conducted, the Landlord found a written letter from the Tenants that stated they were not abandoning the tenancy, and that they would see us at the hearing.

Legal Counsel stated the Tenants sent an email to the Landlord that they would be subletting the rental unit. The Tenants asked the Landlord for written permission to sublet the suite, but it was not granted.

The Tenants have found alternate living accommodations. When asked if they wanted to settle this matter today, the Tenants said the One Month Notice was unfairly given but were unclear of amount for settlement.

The Landlord's Agent, CR, stated they use this rental unit for their employees, but as the Tenants disputed the Landlord's One Month Notice, the Landlord offered a different rental unit to another employee. The Landlord would have offered the Tenants' rental unit, and still require it back to use for future employees. Landlord's Legal Counsel states the Landlord has commenced legal proceedings seeking compensation for unpaid rent. The Landlord did not prepare a cross application to the Tenants' claims.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

Section 48 of the Act is the relevant part of the legislation in this matter. It states:

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

- 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.*

...

The Tenants were served with the One Month Notice on April 29, 2022. I find the One Month Notice complies with the form and content requirements of Section 52 of the Act.

The Tenants applied for dispute resolution on May 9, 2022 which was within the 10 days after the date the Tenants received the One Month Notice.

It is an undisputed fact that Tenant DB's employment ended April 29, 2022. I find that the rental unit was offered to Tenant DB as a benefit from her employment. I also find that the Landlord intends in good faith to rent the rental unit to new employees for the company. The Tenants vacated the rental unit on May 31, 2022 and were not provided permission from the Landlord to sublet the rental unit. The Landlord has proven on a balance of probabilities that their One Month Notice is valid, and I dismiss the Tenants' dispute resolution application without leave to re-apply.

As the Tenants failed in their application, I must consider if the Landlord is entitled to an Order of Possession. Section 55(1) of the Act reads as follows:

***Order of possession for the landlord***

- 55** (1) *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*
- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*
  - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

I previously found the Landlord's One Month Notice complied with Section 52 of the Act, and I have upheld the Landlord's notice. Based on the testimonies of the parties, I grant an Order of Possession to the Landlord which will be effective two (2) days after service on the Tenants.

As the Tenants were not successful in their claim, I do not grant them recovery of the application filing fee.

**Conclusion**

The Tenants' application for dispute resolution is dismissed, and the Landlord is granted an Order of Possession, which will be effective two (2) days after service on the

Tenants. The Order of Possession may be filed in and enforced as an Order of 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 Act.

Dated: September 13, 2022

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Residential Tenancy Branch