

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** CNC

## **Introduction**

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause. Both the tenant and the landlord were represented in the hearing at which time, the sworn testimony of the landlord was that the cause for the notice to end tenancy rested solely on the issues of 47(1)(d). The landlord's position is that the tenant has 47(1)(d)(ii) "seriously jeopardized the health or safety of another occupant or the landlord", by way of the conduct and actions of their pet dog. During the hearing, the landlord verbally requested an order of possession.

## **Issue(s) to be Decided**

Should the notice to end tenancy be cancelled?

## **Background and Evidence**

The tenancy began on March 1, 2007. On November 7, 2008, while on the landlord's property, the landlord was bitten on the leg by the tenant's 85 lb. dog. The dog's bite left the landlord with, "4 teeth marks and a large bruise" – landlord. The testimony of both parties concurred that the dog had been residing in the rental unit for approximately one (1) year with the landlord's knowledge and that there are several other dogs residing in the landlord's rental units and that pets are permitted on the property. Other than the incident which led to this matter before me, both parties concurred the dog has not been an issue before or since this incident.

The tenant's testimony is that the dog is "a member of our family", and they are not prepared to remove the dog from their rental unit in light of or due to this incident. They claim the dog is not an aggressive animal and only harmed the landlord because only the landlord is perceived a threat to the dog. The tenant has supplied a petition from seven of the other apartment dwellers in the complex, as well as letters from four (4) alleged dwellers of the complex in support of the dog remaining. The petition states that the dog has not caused them harm or "potential risk" to their personal well being or the safety of their apartment. Two (2) of the letters are signed, one of which is additionally detailed with the writer's age indicating them as 13 years old. The tenant has offered to obtain a muzzle for the dog and that the tenant would ensure the dog is muzzled while on the landlord's property.

The landlord was represented by the resident manger of the rental complex. His testimony is that due to the incident of November 7, 2008 the landlord has lost confidence in the tenant's ability to control the dog's conduct while on the property. The landlord has also lost confidence in that the dog's previously non-aggressive demeanor is now an issue. He is concerned that while on the landlord's property the dog may repeat the purported aggressive behaviour of November 7, 2008, and he fears that permitting the dog to remain in the landlord's building would pose a known liability risk for the landlord and that a repeat of the dog's aggressive behaviour could invite a suit for any incurred injuries. The landlord stated he had spoken to the owner of the building but has not consulted legal advice as to the liability concerns of allowing the dog to remain in the complex.

### **Analysis**

I note that the landlord has brought up the issue and concern of liability for the landlord, but I determine that the landlord has not provided sufficient evidence that if the dog remains on the landlord's property it will seriously jeopardized the interest of the landlord, as identified in section 47(1)(d)(ii). However, had the landlord claimed and provided that they had received compelling legal advice that permitting the dog to remain in the complex would pose a legal risk to the landlord's interest if the dog remained, or provided other relevant evidence, I may have found that the landlord did have cause to end the tenancy.

I find that the landlord, at this time, has failed to provide sufficient evidence to establish cause to end the tenancy.

### **Conclusion**

The notice to end tenancy for cause is cancelled, with the effect that the tenancy continues.

Dated: December 8, 2008