



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 from the tenants for cancellation of the landlord's 1 month notice to end tenancy for cause. Both parties participated in the hearing and gave affirmed testimony.

Issue to be decided

- Whether the tenants are entitled to cancellation of the landlord's 1 month notice to end tenancy for cause

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on July 1, 2005. The tenants' portion of the subsidized rent is \$349.00 and is payable on the first day of the month. A security deposit of \$450.00 was collected at the outset of tenancy.

The landlord issued a 1 month notice to end tenancy for cause dated June 22, 2009. The notice was served in person on the tenants on that same date. A copy of the notice was submitted into evidence. The date shown on the notice by when the tenants must vacate the unit is July 31, 2009. The reason shown on the notice for its issuance is as follows:

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

In short, the landlord's position is that the tenant breached a material term of the tenancy by keeping a pet cat in the unit without obtaining permission. In this regard, clause # 27 of the "Rules and Regulations" appended to the residential tenancy agreement provides as follows:

Written permission for any pet must be obtained from the Property Manager.

Dogs, cats, and certain other pets are not permitted on the property by residents or invited guests, which includes pet sitting.

Prior to issuance of the notice, by letter dated January 27, 2009, the landlord informed the tenant that the cat's presence in the unit had been noted, and the tenant was requested to have the pet removed by no later than February 10, 2009. Further, in the letter the tenant was informed that failure to remove the pet would lead to issuance of 1 month notice to end tenancy. Subsequently, by letter dated June 4, 2009, the landlord informed the tenant that the cat's continued presence in the unit had been noted, and that a 1 month notice to end tenancy would therefore be forthcoming.

During the hearing the landlord's agent made an oral request for an order of possession in the event the tenant's application does not succeed. The landlord's agent requested that the order of possession be effective August 31, 2009.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenants were served in person with a 1 month notice to end tenancy for cause dated June 22, 2009. Section 47(4) of the Act provides that a tenant may dispute such a notice "by making an application for dispute resolution within 10 days after the date the tenant receives the notice." In this case, the 10th day is July 2, 2009. However, the tenants filed their application to dispute the notice on July 3, 2009, and did not apply for more time to dispute the notice. Accordingly, the tenants are therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on

the effective date of the notice which was July 31, 2009. In the result, I find that the landlord is entitled to an order of possession.

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Monday, August 31, 2009**. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

DATE: August 18, 2009

Dispute Resolution Officer