

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking to cancel a Notice to End Tenancy issued to him by the Strata Plan where the rental unit is located.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Background and Evidence

The Tenant entered into a written tenancy agreement with his Landlord, who was not a party to these proceedings, on or about October 8, 2008.

The tenancy agreement, which is the standard form Agreement #RTB 1, had a notation in paragraph number five which deals with pets. The handwritten notation states, "... and bylaws of the building...".

The Tenant's affirmed testimony was that the Landlord told him that he could have two dogs in the rental unit. The Landlord accepted a security deposit and a pet damage deposit. The Tenant testified that the Landlord did not provide him with a copy of the rules or bylaws of the Strata.

The Strata President's affirmed testimony was that the Landlord did not provide the Strata with a Form K. The Strata President was unaware if the Landlord had provided the Tenant with the rules and bylaws of the Strata.

The Strata President testified that the Strata had issued the Tenant the Notice to End Tenancy, because the Tenant had two dogs, and the Strata rules and bylaws only allow one dog per unit.

The Strata did not provide a copy of its rules or bylaws, which they assert the Tenant is in breach of.

The Tenant argued that his tenancy agreement, the contract, is only with the Landlord and that the Strata had no contract with him.

Analysis

Under the *Strata Property Act*, section 138, the Strata was entitled to issue the Tenant a Notice to End Tenancy, when they allege there is a, "... repeated or continuing contravention of a reasonable and significant bylaw or rule...". However, the Strata did not provide a copy of the bylaw or rule they seek to enforce in the Notice to End tenancy in evidence for this hearing. The Strata also had no evidence that the Tenant had been provided with a copy of the bylaw or the rules.

Therefore, based on the foregoing, the testimony and evidence, and on a balance of probabilities, I find the Strata has provided insufficient evidence to prove the Notice should be found valid or upheld.

Therefore, I allow the Tenant's Application and I order that the Notice to End Tenancy issued on August 9, 2009, **be cancelled and it is of no force or effect.**

I also grant the Tenant his filing fee in this matter, and issue him a monetary order for **\$50.00**

Conclusion

While the Strata may issue a Notice to End Tenancy to the Tenant, there was insufficient evidence before me to conclude the Notice should be upheld or found valid.

The Notice to End Tenancy is therefore cancelled and it is of no force or effect.

The Strata must pay the Tenant the **\$50.00** filing fee for the Application.

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: September 24, 2009.

Dispute Resolution Officer