

Decision

Dispute Codes:

CNC FF

Introduction

This is the Tenant's application to cancel a One Month Notice to End Tenancy for Cause; and to recover the filing fee from the Landlord for the cost of the Application.

I reviewed the evidence provided prior to the Hearing. The parties gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Should the One Month Notice to End Tenancy for Cause issued September 28, 2009, be cancelled?
- Is the Tenant entitled to recover the cost of the filing fee from the Landlord?

Background and Evidence

There were no issues with respect to service of the Notice to End Tenancy upon the Tenant, or the Notice of Hearing documents upon the Landlord.

The Notice to End Tenancy for Cause issued September 28, 2009, cites the following reasons to end the tenancy:

Tenant or a person permitted on the property by the tenant has:

- Significantly interfered with or unreasonable disturbed another occupant or the landlord;

- Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The Landlord's agent gave the following testimony:

The Tenant is a long-term tenant and a good tenant. Rent has always been paid on time and there were no complaints from other tenants in the rental property until the Tenant got a new room mate in July, 2009. When the new room mate moved in, the problems started.

The Tenant has a pit bull dog, which the Landlord has verbally asked the Tenant to keep on a leash and muzzled. The Landlord has not observed the dog off the leash and unmuzzled when the Tenant is handling him, but when the Tenant's room mate has care of the dog, he is not muzzled. The Landlord has received complaints from other tenants in the rental property about the unmuzzled dog lunging at them. When the Landlord's agent has been showing suites to prospective tenants, the Tenant's dog has lunged at them, frightening the prospective tenants away. The other tenants are afraid of the dog and fear for their children's safety.

There is a lot of traffic coming and going from the Tenant's suite at all hours of the day and night, waking the other tenants. The Landlord has received complaints from other tenants in the rental property about noise, cursing and fighting occurring at the Tenant's suite late at night.

Two other tenants have already left the rental property because of the Tenant's dog and the late night disturbance and the Landlord is going to lose one more this month.

The Tenant gave the following testimony:

The Tenant always keeps control of her dog. There have been times when the Tenant's room mate has had charge of the dog, and may have not used the muzzle.

The Tenant is aware that there have been people coming over while she was away.

The Tenant does not want to move from the rental unit and asked the Landlord to give her another chance.

The Landlord's agent gave the following response:

The Landlord's agent cannot risk losing any more tenants and feels that if he does not evict the Tenant, other tenants may claim against the Landlord for monetary damages. The Landlord is satisfied to allow the Tenant to stay in the rental unit until November 30, 2009, and asked for an Order of Possession for that date.

Analysis

The Landlord's agent provided copies of three letters from other tenants in the rental property, attesting to their fear and mistrust of the Tenant's dog and the noise coming from the Tenant's suite late at night. The Landlord's agent provided a copy of a warning letter to the Tenant dated August 21, 2009, stating that he had received numerous complaints about her dog and the amount of traffic coming and going from her suite.

The Tenant is responsible for the actions of her guests and other occupants.

I find that the Landlord has proven cause to evict the Tenant. The Tenant's application to cancel the Notice to End Tenancy for Cause is dismissed without leave to reapply. The Tenant has not been successful in her application and is not entitled to recover the cost of the filing fee from the Landlord.

The Landlord is entitled to an Order of Possession. The Notice is effective November 1, 2009, and therefore the Landlord would ordinarily be entitled to an Order of Possession effective two days after service of the Notice upon the Tenant. However, the Landlord asked for the Order to be effective 1:00 p.m., November 30, 2009, and I make the Order effective on that date.

Conclusion

The Tenant's application is dismissed in its entirety, without leave to reapply.

I hereby grant the Landlord an Order of Possession **effective 1:00 p.m., November 30, 2009**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: November 13, 2009.
