

DECISION

Dispute Codes

OPC, FF

Introduction

This decision deals with two applications for dispute resolution, both of which were filed by the landlord. Both files were heard together. At the outset of the hearing the landlord withdrew the first One Month Notice issued on May 12, 2010 and abandons her application for an Order of Possession based on that Notice. The landlord wishes to continue with the second application for an Order of Possession for cause for the second One Month Notice issued to the tenant and to recover the filing fee for the application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on June 15, 2010. Mail receipt numbers were provided by the landlords' agent in evidence. The tenant was deemed to be served the hearing documents on June 20, 2010 the fifth day after they were mailed as per section 90(a) of the *Act*.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

Both Parties agree that this tenancy started on December 01, 2009. Rent for this unit is \$1,050.00 per month and is due on the first day of each month. The tenant paid a security deposit of \$525.00 on December 21, 2009.

The landlords' agent testifies that the tenant has a dog in her unit in direct contravention of their tenancy agreement. The tenancy agreement section 25 states dogs are not allowed. Section 5 of the tenancy agreement states any term in this tenancy agreement that prohibits, or restricts the size of, a pet or governs the tenants obligation regarding the keeping of the pet on the residential property is subject to the rights and restrictions under the Guide Animal Act.

The landlords' agent testifies that the tenant told them the dog was a seizure dog and was being trained by the tenant for her seizures. The landlords' agent states the tenant was asked to provide them with evidence of this training and certification that this was a seizure dog and therefore fell under the Guide Animal Act. The landlord has provided a copy of letters and e-mails sent to the tenant regarding the dog. The landlords' agent states the tenant has not provided any evidence to them concerning this matter as requested and a One Month Notice to End Tenancy was served on the tenant on May 28, 2010. The reason given on this Notice is that the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so. The landlord seeks an Order of Possession to take effect as soon as possible.

The tenant testifies that she did not dispute the One Month Notice to End Tenancy as she could not afford to do so. The tenant claims the dog is a seizure dog being trained to alert others to her seizures. The tenant claims both her and the dog are being trained by West Coast Assistance Team. The tenant states she has not provided any evidence of this training or of her medical condition as she is waiting for an appointment with her neurologist.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties; the tenant has provided no evidence to support her claim at this hearing that her dog is a seizure dog and agrees that she did not dispute the Two Month Notice.

Section 47(5) of the *Act* stipulates that a tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice received. The tenant must vacate the rental unit by this date unless she disputes the notice within 10 days of receiving the Notice.

As there is no evidence that the tenant filed an application to dispute the Notice, I find the tenant has accepted that the tenancy ends on the effective date of the Notice of June 30, 2010. On this basis I grant the landlord an Order of Possession, pursuant to section 55 of the *Act*, to take effect **two days after service** on the tenant.

I further find as the landlord has been successful with their application, that the landlord is entitled to recover the filing fee of **\$50.00** paid for this application from the tenant pursuant to section 72(1) of the *Act*. As the landlord withdrew their application for an Order of Possession based on the first One Month Notice served on the tenant they are not entitled to recover the \$50.00 filing fee for that application.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service** on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$50.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: July 15, 2010.

Dispute Resolution Officer