

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with an application by the tenant to dispute a 1 month notice to end tenancy for cause and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issues to be Decided

Are the tenants entitled to any of the above under the Act.

### Summary of Background and Evidence

This tenancy started February 1, 2010 with monthly rent of \$1100.00, the tenants paid a security deposit of \$550.00. On January 4, 2011 the landlord served the tenants with a Notice to End Tenancy for Cause: repeatedly late paying rent; put the landlord's property at significant risk; breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that the tenants have repeatedly been late paying rent and has submitted evidence reflecting that the tenants have been late with their rent May, July, August and September 2010 and January 2011.

The landlord stated that the tenants put the landlord's property at significant risk when the tenant's did not inform the landlord that the hot water tank was leaking. The leak was discovered by the landlord's realty agent and after inspection by a plumbing professional the hot water tank was replaced to avoid catastrophic failure and flooding.

The landlord stated that the tenants have brought a dog into the unit without the landlord's written consent and that the tenancy agreement clearly states no pets. The landlord stated that he wrote to the tenants to remove the dog after the strata council sent the landlord a warning letter stating that there have been complaints filed regarding the dog running loose, the tenants not picking up after their dog and that a fine may be levied against the landlord's rental unit. The landlord stated that the tenant called him regarding the dog after receiving his warning letter and advised him that they would not be removing the dog from the rental unit.

The landlord per Section 55 of the Act has verbally requested in this hearing, an order of possession for February 28, 2011, the end tenancy date of the notice to end tenancy for cause.

The tenant testified that they have been late paying rent on two occasions only, September 2010 and January 2011 and the landlord did not refute this testimony.

The tenant stated that she had not noticed the hot water tank leaking and that was why she did not contact the landlord. The tenant contends had she know that there was a serious concern with the hot water tank she would have let the landlord know.

The tenant did acknowledge that they have a dog in the rental unit and that they did not get written permission from the landlord to bring a pet into the rental unit. The tenant was under the impression that as DF who acts as agent for the landlord had seen the dog and said nothing to the tenants, that it was alright for the dog to be in the rental unit. The tenant acknowledges that page 3 of the tenancy agreement notes 'no pets' and section 1. 2) of the tenancy agreement states that any changes or additions to the agreement must be in writing.

### Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds to have the notice to end tenancy for cause upheld for *breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so* and are entitled to an order of possession.

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on February 28, 2011 at 1:00 PM.

As the tenant has not been successful in their application they are not entitled to recovery of the \$50.00 filing fee.

### Conclusion

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on **February 28, 2011 at 1:00 PM.**

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: February 8, 2011

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Residential Tenancy Branch