

DECISION

Dispute Codes CNC

Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy issued for cause.

Both parties have attended the hearing by conference call and have given testimony. The Tenant states that he was unable able to serve his 4 page evidence package on the Landlord. The Landlord has confirmed that she did not receive the Landlord's evidence. The Tenant states that he did not provide to the Residential Tenancy Branch anything other than the handwritten notes and list of two witnesses. I find that the Landlord is not prejudiced by the Tenant's evidence of written notes and that the hearing may proceed. The Tenant may if he wishes to read for the hearing the contents of his personal notes. The Tenant has confirmed receipt of the Landlord's evidence package. I am satisfied that both parties have been served with the notice of hearing and any relevant documentary evidence as deemed under the Act.

The Landlord has stated in her direct testimony that she wishes the Tenancy to end and to gain possession of the rental unit.

Issue(s) to be Decided

Is the Tenant entitled to an order to cancel the notice to end tenancy issued for cause?
Is the Landlord entitled to an order of possession?

Background, Evidence and Analysis

This Tenancy began on September 1, 2009 on a month to month basis as shown in the submitted copy of the signed tenancy agreement.

Both parties agreed that a 1 month notice to end tenancy issued for cause was served by the Landlord on May 25, 2012 to the Tenant. There are two reasons for cause stated. 1) Tenant has not done required repairs of damage to the unit/site. 2) Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so. The effective date of the notice is shown as June 30, 2012. The Landlord cites clause #18 in the signed tenancy agreement for no pets

without written approval of the Landlord. Both parties agreed that the Tenant was served with a "Caution Notice to Tenant" dated May 2, 2012. The notice describes an occurrence that took place in February of 2012 warning the Tenant that the Tenant had breached the agreement of possession a dog not approved of in-writing by the Landlord. The notice also claims that the Tenant is responsible for damage to the lawn because of the dog's feces and urine. The Landlord has submitted a photograph of the affected lawn area. The Tenant disputes the Landlord's claims, but admits that the dog did cause some damage to the lawn. Both parties agreed that the dog urine was a likely cause for the damage to the lawn. The Landlord states that she witnessed the return of the dog after this caution notice was served and issued the 1 month notice to end tenancy dated May 25, 2012. The Tenant disputes this stating that the dog belongs to a friend and that it was brought to the rental property when his friend was visiting. Both parties also agreed that the Landlord gave verbal warnings to the Tenant to remove the dog or that an eviction notice could be issued.

Although not conclusive, I find that on a balance of probabilities that the dog urine did cause damage to the lawn notwithstanding how much of the lawn was damaged by the dog. The Tenant was clearly warned about the dog and the damage caused. I find that the Landlord has established a claim for an order of possession. The Tenant was in breach of a material term of the tenancy by having a dog on the rental property without written permission of the Landlord. The Tenant's application to cancel the notice dated May 25, 2012 is dismissed. I find that the notice dated May 25, 2012 to be valid and in effect on June 30, 2012.

As the Landlord has requested that the Tenancy end in her direct testimony, I grant an order of possession to the Landlord.

Conclusion

The Tenant's application is dismissed.

The Landlord is granted an order of possession effective on June 30, 2012 based upon the notice dated May 25, 2012.

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: June 25, 2012.

Residential Tenancy Branch