



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking an order to cancel a one month Notice to End Tenancy issued to her by the Landlord for alleged cause, and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided 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.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Should the one month Notice to End Tenancy be cancelled?

Background and Evidence

Pursuant to the rules of procedure, the Landlord provided evidence first regarding why the Notice to End Tenancy was issued.

The Agent for the Landlord testified that the Tenant was personally served with a one month Notice to End Tenancy on June 29, 2012, with an effective date of July 31, 2012, (the "Notice").

The Notice sets out that the Landlord wants to end the tenancy because a pet damage deposit was not paid within 30 days as required by the tenancy agreement.

The Agent for the Landlord testified that the tenancy started March 1, 2009, and at that time the Landlord had different agents as property managers in the rental unit building.

In the written, standard form tenancy agreement, the box indicating a pet damage deposit is “not applicable” is checked off. The tenancy agreement has an addendum attached and the first sentence of it sets out, “NO PETS ALLOWED WITHOUT PRIOR CONSENT BY OWNER OR AGENT.” [Reproduced as written.]

The Agent for the Landlord explained that on a recent inspection of the subject rental unit, it was observed that the Tenant had two cats and the carpets in the rental unit had been damaged.

The Landlord’s position is that the Tenant did not have prior consent to have pets and has not paid a pet damage deposit. The Agent for the Landlord testified there is no written record of the Tenant requesting permission for a pet. Furthermore, the tenancy agreement box showing a pet damage deposit was not applicable indicates that the Tenant did not have pets at the outset of the tenancy.

The Tenant testified that no one had requested she pay a pet damage deposit.

The Tenant testified that she had the cats when she moved into the rental unit and the Landlord’s property manager at that time allowed her to have these pets. She testified the Landlord’s old property manager knew at the outset of the tenancy that she had two cats and did not request a pet damage deposit.

The Tenant testified that she agreed her cats had caused damage to the carpets in the rental unit and she is willing to pay for those repairs. She is also willing to pay a pet damage deposit.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Notice must be cancelled.

I find that the Landlord did not request a pet damage deposit from the Tenant and therefore, it cannot be said she has refused to pay one for 30 days. Therefore, the wrong reason to end the tenancy was put on the Notice.

Nevertheless, I also find that the Tenant did not have sufficient evidence to prove she had permission to have pets in the rental unit. Although she testified that the property manager at that time “verbally” allowed her to have pets, this is contradicted by the written tenancy agreement. I find that, based on the written evidence before me, if the

Tenant had disclosed she had pets at the start of the tenancy, the Landlord would have requested a pet damage deposit. This was contemplated in both the tenancy agreement and the addendum.

Nevertheless, it would be to each party's advantage to try and resolve this dispute. The Tenant is aware that although she was successful in this Application, the Landlord might simply turn around and issue her another one month Notice to End Tenancy for damage to the rental unit or for some other cause related to her having pets without permission.

Conclusion

The Landlord has not requested a pet damage deposit from the Tenant and therefore, the Notice to End Tenancy must be cancelled because the Tenant did not have to pay the pet damage deposit within 30 days.

However, I find the Tenant has pets in the rental unit without the Landlord's permission, and therefore, the parties are encouraged to resolve this dispute.

As the Tenant was successful in her Application, I allow her the recovery of the **\$50.00** filing fee for the Application. This **\$50.00** may be deducted from one month of rent payable to the Landlord.

This decision is final and binding, except as otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 23, 2012.
