



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to obtain an Order to set aside a Notice to end tenancy issued for cause.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the 1 Month Notice to end tenancy for cause issued July 29, 2012 be set aside?

Background and Evidence

The following facts are not in dispute:

- the parties entered into a month to month tenancy agreement that began on February 1, 2009;
- rent is payable on the first of each month in the amount of \$975.00;
- on December 5, 2008 the Tenant paid \$437.00 as the security deposit;
- the Tenant was personally served a 1 Month Notice to end tenancy for cause on July 29, 2012;
- the Tenant was issued warning letters from the Landlord on May 25, 2012 and July 19, 2012;
- the Tenant was late paying rent in November and December 2011, and February, March, May, and June 2012; and

- September rent has not been paid in full and the Tenant was issued a receipt for use and occupancy only for the \$375.50 that has been paid towards September rent.

The Tenant submitted that she always kept the Landlord informed of why she was paying her rent late. She argued that the Landlord never told her she had any issue with the late payments until she received the May 25th, 2012 letter. She confirmed that she did not seek permission to have the additional two dogs or additional cats and argued that the Landlord knew about the additional cats and did nothing about their presence. The Tenant stated that she refused to get rid of the two large dogs and “the Landlord could do what she needed to do, she was not giving up her dogs”.

The Landlord submitted a copy of the tenancy agreement and noted that section 22 indicates the Tenant was allowed 1 dog and 2 cats. She confirmed that she attended the hearing to request that I uphold the 1 Month Notice to have the Tenant move. Upon further clarification the Landlord stated she was seeking an Order of Possession

Analysis

When considering a 1 Month Notice to End Tenancy for Cause the Landlord has the burden to provide sufficient evidence to establish the reasons for issuing the Notice to End Tenancy.

Upon review of the 1 Month Notice to End Tenancy issued July 29, 2012, I find the Notice to be completed in accordance with the requirements of section 52 of the Act and I find that it was served upon the Tenant in a manner that complies with section 89 of the Act.

The Notice was issued pursuant to Section 47(1) of the Act for the following reasons:

- Tenant is repeatedly late paying rent
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

On the grounds that the Tenant is repeatedly late paying rent I have carefully considered the evidence submitted by the Landlord which proves the Tenant paid rent late for each of the following months: February 2012, March 2012, May 2012, and June 2012. The evidence further confirms that the Tenant continued to pay rent late even after receiving the warning letter on May 25, 2012.

The tenancy agreement provides that the Tenant is allowed 1 dog and 2 cats. The Tenant does not deny acquiring the additional two dogs and three cats without the Landlords permission. The Tenant has clearly made a personal choice to go against the Landlord's wishes to limit the number of indoor pets and she flat out refuses to have the two large dogs removed from the rental property, even after being warned it could be grounds for eviction.

Based on the foregoing I find the Landlord has met the burden of proof to end this tenancy for repeated late payment of rent and failure to correct a breach within a reasonable amount of time, as provided for by the Act. Accordingly I uphold the 1 Month Notice on this ground and I dismiss the Tenant's request to set aside the Notice.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing. Accordingly I award the Landlord an Order of Possession.

Conclusion

I HEREBY FIND the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

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: September 11, 2012.

Residential Tenancy Branch