



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, DRI, FF, MT

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was personally served on the Tenant on June 12, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on July 4, 2013. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated June 12, 2013?
- b. Whether the Tenant is entitled to an order disputing an additional rent increase?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would commence on January 20, 2012 and would continue on a month to month basis. The rent was \$700 per month. The tenant paid a security deposit of \$350 on January 4, 2012.

At the end of April the landlord became aware the tenant was dog sitting a dog. The tenant initially obtained the dog on a temporary basis. However, the tenant has not been able to find a home for the dog.

On June 3, 2013 the landlord gave the tenant notice in writing stating the tenant was in breach of contract by obtaining the dog (pet) without prior consent from the landlord and notifying her that unless the said breach was remedied by June 13, 2013 that they reserved the rights to exercise any and all remedies available to the landlord under terms of the contract.

The tenant testified the tenant lives in a 4-plex and the other units have pets (cats and one dog). She further stated that landlord has told her he intends to raise the rent by \$150 per month because of the dog.

Grounds for Termination:

The Notice to End Tenancy relies on section 47(1)(h) of the Residential Tenancy Act.

That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(h) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Analysis:

I determined the landlord had not been prejudiced and accordingly I granted the tenant more time to bring this application.

The written tenancy agreement used by the parties is the standard form agreement published by the Residential Tenancy Branch. Paragraph 5 of that form provides that any term that prohibits or restricts the size of, a pet or that governs the tenant's obligations regarding the keeping of a pet on the residential property is subject to the rights and restrictions under the Guide Animal Act. The only other provision dealing with pets is the section dealing with a pet damage deposit which was not applicable when the tenant moved in.

The last page of the tenancy agreement indicates that there was an Addendum. However, neither party provided a tenancy agreement with an attached Addendum.

It does not appear there is any provision in the tenancy agreement prohibiting pets or requiring the tenant to obtain the landlord's permission for a pet. Normally that provision would have been included in the Addendum. However, the parties failed to produce a tenancy agreement that contained an Addendum. I determined the tenant has not breached a material term of the tenancy agreement by having the dog as there is no provision in the tenancy agreement prohibiting a pet or requiring the landlord's consent for a pet. As a result I ordered that the one month Notice to End Tenancy dated June 12, 2013 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

I dismissed the tenant's claim disputing an additional rent increase as the landlord has not charged an additional rent increase. In rent increase must take place in accordance with the Residential Tenancy Act.

The tenant has been successful with her application and as a result I ordered that the landlord pay to the Tenant the sum of \$50 for the cost of the filing fee such sum may be applied to future rent.

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: August 07, 2013

Residential Tenancy Branch

