



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, PSF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a Notice to End Tenancy – Section 47;
2. An Order that the Landlord comply with the Act – Section 62; and
3. An Order for the landlord to provide services or facilities required by law - Section 65.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Issue(s) to be Decided

Is the Notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to orders in relation to the landlord’s compliance with the Act or the provision of services?

Background and Evidence

The following are agreed facts: The tenancy started on May 1, 2013 on a month to month basis. Rent of \$880.00 is payable monthly on the first day of each month. The Landlord collected a security deposit of \$440.00 on April 14, 2013. Rent includes the provision of basic cable, heat, electricity and access to laundry.

On October 15, 2013 the Landlord served the Tenant with a one month notice to end tenancy for cause (the "Notice"). There is no dispute that the only reason listed on the notice is that the security or pet damage deposit was not paid within 30 days as required by the tenancy agreement. There is no written tenancy agreement. The Landlord states that at the outset of the tenancy the Tenant was told that no pets or smoking was allowed in the unit. The Landlord states that a pet was noticed in the unit shortly after the tenancy began and that on May 5, 2013 the Landlord asked for a pet deposit of \$440.00 and that the Tenant both refused and asked for time to pay the deposit.

The Tenant states that the Landlord was told of the dog before the security deposit was paid and that the Landlord met both the dog and the Tenant's daughter and told them the dog was okay. The Tenant states that the Landlord was only concerned that the Tenant's cat stays out of the garden. The Tenant states that the Landlord only asked for a pet deposit the day before the Notice was given to the Tenant.

The Tenant states that the Landlord has requested only cash for the rent payments and has refused to provide receipts for the past rent paid and the security deposit. The Tenant requests an order that the Landlord provided receipts. The Tenant also asks for assurance that the oral terms of the tenancy agreement will be upheld in the future.

Analysis

Where a Notice to End Tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the Notice and that at least one reason must constitute sufficient cause for the Notice to be valid. Finding the Tenant's evidence more credible, I find that the Landlord knew that the Tenant had a pet at the onset of the tenancy and did not ask for a pet deposit until sometime much later in the tenancy. As such, I find that the Landlord has not substantiated that the Tenant was required to pay a pet deposit or that the Tenant is not allowed to have a pet in the unit. The Notice is therefore not valid and the Tenant is entitled to a cancellation of the Notice. The tenancy continues.

Section 25 of the Act provides that a landlord must provide a tenant with a receipt for rent paid in cash. Based on the undisputed evidence of the Tenant I find that the Landlord has failed to provide receipts for the rents paid by the Tenant in cash. As the Act requires this, I order the Landlord to provide the Tenant with receipts for all past rents paid, including the payment of the security deposit by no later than December 4, 2013.

Section 13 of the Act provides that a landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004. As there is no written tenancy agreement but considering that the Tenant has requested future certainty, I strongly encourage the Landlord to adhere to the Act and place in writing the terms of the tenancy that have been agreed to by the Parties at this hearing and set out as agreed facts above.

Conclusion

The Notice is cancelled and of no effect.

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: December 11, 2013

Residential Tenancy Branch

