



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MT, CNC

Introduction

This hearing was scheduled in response to the tenant's application for more time to make an application to cancel a notice to end tenancy / and cancellation of a 1 month notice to end tenancy for cause. The tenant attended and gave affirmed testimony.

The tenant testified that she served the landlord with her application for dispute resolution and the notice of hearing (the "hearing package") by way of registered mail on June 16, 2014. Despite this, the landlord did not appear.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for the tenancy in this particular unit which began on April 01, 2013. Monthly rent of \$670.00 is due and payable in advance on the first day of each month, and a security deposit of \$300.00 was collected.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy for cause dated May 14, 2014. The notice was served by way of posting on the unit on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is June 30, 2014. The reason shown on the notice in support of its issuance is as follows:

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The tenant filed an application to dispute the notice on June 16, 2014.

The tenant testified that a previous 1 month notice to end tenancy for cause was issued by date of March 13, 2014. The earlier notice had been issued on grounds that the tenant owned a dog in contravention of the tenancy agreement, which provides that no pets are allowed in the building. Both parties filed applications for dispute resolution (file # 819407 & 819900) and by decision dated May 07, 2014, the landlord's application for an order of possession was dismissed, and the tenancy continued uninterrupted. In short, the Arbitrator found that the landlord had not provided the tenant with written notice concerning the dog prior to issuing the 1 month notice.

Subsequently, the more recent 1 month notice to end tenancy for cause was issued on the same grounds. Thereafter, the tenant found that her dog had been removed from her unit without her knowledge or consent. She is at a loss to know who gained entry to her unit for this purpose, and she testified that her related distress around this incident contributed significantly to the late filing of her application to dispute the notice.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 47(4) of the Act provides that a tenant may dispute a 1 month notice to end tenancy for cause "within 10 days after the date the tenant receives the notice." In this case, as the notice was posted on the unit door on May 17, 2014, pursuant to section 90 of the Act which addresses **When documents are considered to have been received**, the tenant is deemed to have received the notice 3 days later on May 20, 2014. Accordingly, the tenant had until May 30, 2014 to dispute the notice within the statutory 10 day period available.

Section 66 of the Act speaks to **Director's orders: changing time limits**, and provides in part that the director "may extend a time limit established by this Act only in exceptional circumstances." I find that the circumstances surrounding the unexplained removal of the tenant's dog from her unit are exceptional, and that they contributed significantly to delay in the tenant's filing of her application to dispute the 1 month notice on June 16, 2014. In the result, the tenant's application for an extension of time to apply for cancellation of the notice to end tenancy for cause is hereby granted.

In the absence of an application by the landlord for an order of possession, and in the absence of an oral request for an order of possession at the hearing by the landlord, the 1 month notice to end tenancy is hereby set aside, and the tenancy continues uninterrupted.

Conclusion

The landlord's 1 month notice to end tenancy for cause is hereby set aside.

The tenancy continues in full force and 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: August 11, 2014

Residential Tenancy Branch

