



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC, FF

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to uphold or cancel a one month Notice to End Tenancy that was given for cause.

Background and Evidence

This tenancy began on May 15, 2004 and the present monthly rent is \$800.00.

On January 31, 2015 the landlord personally served the tenant with a one-month Notice to End Tenancy giving the following reasons:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- Tenant or person permitted on the property by the tenant has significantly interfered with or unreasonably disturb another occupant or the landlord.

Landlord testified that the tenants breached two material terms of the tenancy agreement and has failed to rectify the problems even after having been formally requested to do so.

The landlord's allege that the first breach was a breach of the pet clause in the tenancy agreement that did not allow the tenants to get any further pets other than the bird they already had. The tenants breach that agreement by bring a cat into the rental unit without getting permission to do so and have failed to get rid of the cat.

The landlord's alleged that the second breach was a breach of the no smoking clause in the tenancy agreement. The landlord's alleged that the tenants smoke in the rental unit on numerous occasions and appear to have a total disregard for the no smoking clause.

The tenants admitted that they did bring a cat into the rental unit without getting permission from the landlord to do so, even though they knew there was a clause in the tenancy agreement the disallowed any further pets.

The tenants argued however the landlords told them they could keep the cat if it reduce the mouse population, a claim that the landlords adamantly denied.

The tenants also admitted that they had smoked in the rental unit, but claim that that was only in the first year of the tenancy and that they have not smoked in the rental unit since. In response to this claim the landlord testified that they smoke in the rental unit regularly and that he personally witnessed smoke in the rental unit very recently.

Analysis

Although two boxes on the Notice to End Tenancy have been checked off, I dealt first with the alleged breach of a material term of the tenancy agreement, and it is my finding that the tenants have breached a material term of the tenancy agreement and failed to rectify that breach when requested to do so.

The tenants admitted that they were aware of a clause in the tenancy agreement, and admitted that they still brought a cat into the rental unit without getting any permission to do so, and although they claim that the landlord told them they could keep the cat, they have provided no evidence in support of that claim, and, as stated above, the landlord adamantly denies ever making such a statement. In the absence of any supporting evidence it's my finding that the tenants have not met the burden of proving their claim that the landlord told them they could keep the cat.

Therefore since it's my finding that the tenants did breach a material term of the tenancy agreement, I will not be canceling this Notice to End Tenancy and I allow the landlords request for an Order of Possession and recovery of their filing fee.

Since this tenancy is ending for breach of a material term of the tenancy agreement there is no need for me to make a finding on the other reason given on the Notice to End Tenancy.

Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenants; however the landlord stated at the hearing that if the tenants pay the full March 2015 rent as soon as possible, they will not enforce the order until the end of March 2015.

I have also issued a monetary order for \$50.00 for recovery of the landlords filing fee.

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: March 03, 2015

Residential Tenancy Branch

