



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNC

### **Introduction**

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. Both parties attended the hearing and had opportunity to be heard. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **Issue to be Decided**

Does the landlord have grounds to end this tenancy?

### **Background and Evidence**

The tenancy started on July 01, 2013. A tenancy agreement was filed into evidence. Clause 30 of the agreement lays out the terms regarding pets. The clause clearly states that the tenant is not permitted to have pets unless specifically permitted in writing by the landlord. The landlord also filed a copy of a pet agreement that was signed by the tenant on June 29, 2013.

The tenant agreed that she had signed the pet agreement. The pet agreement indicates that the tenant did not have any pets as of June 29, 2013. The tenant testified that she had her pet dog right at the start of the tenancy and had the dog on her lap while she signed the tenancy and pet agreements. The tenant stated that the manager at that time told her that she did not have to pay a pet deposit because the dog was small in size and because she was "on welfare".

On the same day the tenant also signed a document entitled "Offer to lease". This document contains a statement which is in bold font and states as follows:

*We hereby acknowledge that there are no pets allowed on these premises without the landlord's approval*

The landlord stated that it was their policy to collect a pet deposit at the time the tenancy started. The landlord stated that she was not aware that the tenant had any pets until complaints were received from other occupants of the building about the tenant's cats scratching their vehicles.

On March 04, 2015, the landlord served the tenant with a breach letter. In the letter the landlord informed the tenant that by having pets she had breached a material term of the tenancy agreement and requested the tenant to rectify the matter by March 11, 2015.

On March 06, 2015, the landlord sent the tenant a letter informing her that she had signed a no pet agreement at the start of tenancy and that she now had two cats and one dog. The letter requested the tenant to provide proof of vaccinations, proof that the cats were spayed or neutered and provide a licence for the dog. The tenant was also required to pay a pet deposit of \$200.00. The landlord warned the tenant that she would be required to provide the requested documents and fee by March 25, 2015 or the landlord would be serving a notice to end tenancy.

On March 25, 2015, the landlord served the tenant with a notice to end tenancy for cause. The reasons for the notice were that the tenant had breached a term of the tenancy agreement and had not corrected it within a reasonable time after written notice to do so and that the pet deposit was not paid.

On March 26, 2015, the tenant provided the landlord with the required documents but refused to pay the fee. The tenant also disputed the notice to end tenancy.

On March 31, 2015, the landlord served the tenant with a letter reminding the tenant that the behavior that she displayed on March 27, 2015 in the rental office was unacceptable and will not be tolerated. The landlord also informed the tenant that the landlord has never agreed to waive pet fees for the tenant or any other tenant of the building complex. The landlord gave the tenant another chance to pay the deposit in order to set aside the notice to end tenancy.

As of the date of the hearing the tenant had not paid the fee and stated that she had offered to pay the fee, but the landlord had refused to accept it.

### **Analysis**

In order to support the notice to end tenancy, the landlord must prove the grounds alleged.

Section 20 (c) of the *Residential Tenancy Act* states that a landlord must not require a pet damage deposit at any time other than when the landlord and tenant enter into the tenancy agreement or if the tenant acquires a pet during the term of a tenancy agreement, when the landlord agrees that the tenant may keep the pet on the residential property.

Based on the sworn testimony of both parties, I find that the tenant was informed of the pet policy in the following three documents that she signed at the start of tenancy – the tenancy agreement, the offer to lease and the pet agreement.

By signing the pet agreement at the start of tenancy, the tenant informed the landlord that she did not have any pets. When the landlord was notified through complaints made by other occupants, of the presence of the tenant's pets, the landlord gave the tenant an opportunity to enter into a pet agreement. The tenant complied with the landlord's request for documentation but refused to pay the fee by the deadline imposed by the landlord.

Despite a warning that a notice to end tenancy would be issued, the tenant did not pay the pet deposit. The tenant testified that the landlord refused to accept it.

Based on the documents before me I find on a balance of probabilities that it is more likely than not that the landlord would accept a pet deposit if the tenant offered to pay it. I further find that the tenant did not inform the landlord of her multiple pets at the start of tenancy because if she had, the landlord would have charged the tenant a pet deposit. The landlord was within her rights and in compliance with s20(c) of the *Residential Tenancy Act* to demand a pet deposit, upon finding out that the tenant had pets.

The landlord gave the tenant the opportunity to pay the deposit and continue the tenancy but the tenant did not take advantage of the offer.

Since the tenant had pets without informing the landlord of their presence and without entering into a pet agreement I find that the tenant breached a term of the tenancy agreement and did not correct it within a reasonable time to do so. In addition the tenant did not pay the pet deposit as she was required to.

Therefore I uphold the notice to end tenancy.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. The landlord agreed to allow the tenant two months to move out. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order.

The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

### **Conclusion**

The notice to end tenancy is upheld. I grant the landlord an order of possession effective on or before 1:00 pm on September 30, 2015.

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: July 24, 2015

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Residential Tenancy Branch

