



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OASIS APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OLC, FF

Introduction

The tenant applies to cancel a one month Notice to End Tenancy dated July 13, 2015 and for an order that the landlord comply with the law regarding entry to the suite.

The Notice alleges that the tenants have put the landlord's property at significant risk, that the tenants have caused extraordinary damage and that they have breached a material term of the tenancy by keeping a dog and have failed to correct the breach within a reasonable time after being given written notice to do so.

The written tenancy agreement shows the apartment building named to be the landlord and the style of cause has been amended accordingly.

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that there are good ground for the Notice or that the tenants are entitled to a compliance order?

Background and Evidence

The rental unit is a condominium apartment. The tenancy started in June 2012. There is a written tenancy agreement that only the respondent Ms. M.J. had signed.

The respondent Ms. E.P. is the manager of the apartment.

The landlord's representatives testify that on June 24, 2015 they learned that the tenant had a dog in the suite and that the dog was using the carpet in the suite as a toilet. They point to the written tenancy agreement which prohibits pets without permission.

Ms. E.P. confirmed that the landlord operates within the rules set by the strata council in deciding whether or not to grant permission for a tenant to have a dog. Those rules require that the dog be less than 20 lbs. and shorter than 15 inches in height. There is no dispute but that the tenants' dog, a poodle, is within those parameters.

The tenant testifies that the dog is six years old and that she's had it at the apartment the entire tenancy. She says the dog has now been relocated and that it will not be returned to the apartment. She says the dog does its business in the apartment on a "training pad," indicating that no damage is being done to the carpet.

She says that on June 24th the landlord's representative Mr. B. entered her apartment without lawful notice.

Analysis

The evidence presented by the landlord during this hearing does not show that the tenant has caused extraordinary damage to the suite. At most, Mr. B. looked into the apartment and saw the training pad. As stated at hearing, dog urine and feces can destroy a carpet and the floor beneath it in some circumstances but that has not been shown to have happened here.

The tenant having a dog is not a material breach of the tenancy agreement. As confirmed by Ms. E.P., the tenancy agreement does not prohibit dogs, it prohibits dogs without permission. At most, the landlord would be entitled to an order that the tenant remove the dog until permission is granted. Of course, in such a situation it would be incumbent on the landlord not to unreasonably withhold permission. In any event, the dog is gone.

As the landlord has not provided evidence of the state of the carpet, it has not been shown that the tenant has "put the landlord's property at significant risk."

It follows that the landlord has not proved justifiable grounds for giving the Notice to End Tenancy and I cancel it.

In regard to the tenants' claim for a compliance order, it is clear that on the day in question the landlord was notified by the tenants' neighbour that the tenants' smoke alarm was going off. Mr. B. attended, received no answer at the door and so used his master key to open it. He then stood at the door and had a conversation with the tenant Ms. M.J.

I find that Mr. B. was acting appropriately in opening the door in those circumstances. The tenants are not entitled to any compliance order as a result.

Conclusion

The tenants' application to cancel the Notice to End Tenancy dated July 13, 2015 is allowed.

The tenants' application for a compliance order is dismissed.

I award the tenants \$25.00 of the filing fee and I authorize them to reduce their next rent due by \$25.00 in full satisfaction of the 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: August 25, 2015

Residential Tenancy Branch

