



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, received at the Residential Tenancy Branch on June 3, 2016 (the "Application").

The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order cancelling a 1 Month Notice to End Tenancy for Cause, dated May 24, 2016 (the "1 Month Notice").

The Landlord and the Tenant each attended the hearing on their own behalf, and both provided their solemn affirmation.

Both parties acknowledged receipt of the documentary evidence submitted by the other.

The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer to only the relevant facts and issues in this Decision.

Preliminary and Procedural Matters

Page 2 of the 1 Month Notice indicates the Landlord issued the 1 Month Notice for having an unreasonable number of occupants in the rental unit.

However, attached to the 1 Month Notice was a typed addendum setting out further reasons. Specifically, the Landlord indicated the notice was issued because, contrary to the agreements between the parties, the Tenant allowed her boyfriend to move into the rental unit, kept more dogs than agreed to in the rental unit, and permitted more than one vehicle to be parked at the rental unit.

The Tenant acknowledged receipt of the 1 Month Notice and addendum. She advised that she understood the reasons listed in the addendum to be the reasons the 1 Month Notice was issued.

Accordingly, pursuant to section 68 of the *Act*, I amend the 1 Month Notice to include a breach of material terms of the tenancy agreement as a basis for issuing the 1 Month Notice.

Issue to be Decided

Is the Tenant entitled to an order cancelling the 1 Month Notice?

Background and Evidence

Both parties provided with their evidence a copy of the tenancy agreement. It confirms a fixed-term tenancy was in effect for the period from May 1, 2015 to April 30, 2016. Thereafter, the tenancy continued on a month-to-month basis. Rent in the amount of \$880.00 is due and payable on the first day of each month. The Tenant paid a security deposit of \$440.00 and a pet damage deposit of \$440.00.

The Landlord cited several reasons for wishing to end the tenancy, as follows. These restrictions, she testified, are in place because the rental unit is small.

Occupants

First, the Landlord says the Tenant's boyfriend moved into the rental unit in May 2016. She says this is contrary to the tenancy agreement, which states: "NO OTHER OCCUPANTS PERMITTED WITHOUT LANDLORD'S PERMISSION".

As evidence that the Tenant's boyfriend had moved into the rental unit, the Landlord provide documentary evidence which included a photograph of a U-Haul trailer parked in front of the rental unit. Also included in the Landlord's documentary evidence was a text message from the upstairs tenant to the Landlord advising that the contents of the trailer, including boxes, were moved into the rental unit.

The Landlord also advised that men's clothes belonging to the Tenant's boyfriend have been found in the washing machine, the truck belonging to the Tenant's boyfriend is frequently parked outside, and the Tenant's boyfriend and his dog are at the rental unit whenever the Landlord attends.

The Tenant stated her boyfriend does not live at the rental unit, but at his mother's house. Further, she stated he did not move his belongings into the house with the U-Haul trailer. Rather, the Tenant stated the U-Haul trailer was a load of furniture she obtained inexpensively during a trip to Kelowna and transported back to Victoria.

However, in response, the Landlord read an excerpt from the Tenant's Facebook page, in which the Tenant stated to a friend that she and her boyfriend were going to Kelowna to collect her boyfriend's belongings.

Dogs

The Landlord gave oral testimony that there are more dogs in the rental unit than are permitted by the tenancy agreement, which states: "NO ADDITIONAL PETS OTHER THAN [THE TENANT'S TWO DOGS]".

Further, the Landlord says a third dog at the rental property also violates a Pet Agreement, which states: "It is hereby agreed...that the tenant may have the following described pet and no others in the tenant's rental unit..." The agreement goes on to list only the Tenant's two dogs.

The Landlord submitted a photograph of three dogs in the back yard, one of which belongs to the Tenant's boyfriend.

In response, the Tenant did not dispute the Landlord's allegation that there are three dogs being kept at the rental property.

Vehicles

Third, the Landlord's testimony was that since the Tenant's boyfriend moved in, his truck has been parked at the rental property. This is contrary to the rental agreement which states: "ONE CAR ONLY".

The Tenant did not dispute the allegation that her boyfriend is frequently parked at the rental property.

Noise

Finally, although not cited in the addendum to the 1 Month Notice as a basis for ending the tenancy, the Landlord added that noise disturbances from the Tenant, her boyfriend, and their dogs, have resulted in the upstairs tenant moving out. The Landlord provided

a letter from the upstairs tenant, dated June 1, 2016, citing the above and other reasons for moving. The upstairs tenant moved out of the rental unit.

The Tenant's Additional Evidence

Addressing the Landlord's allegations generally, the Tenant also testified she had issues with being served notices on her door, and with noise from the upstairs rental unit, which is being renovated. The Tenant also submits she is entitled to have guests over and have quiet enjoyment of the rental unit.

The Tenant also testified that she was laid off six months ago, but is now working full-time and has continued to pay rent on time. The rental unit, she says, is spotless. The parties confirmed rent has been paid for July 2016.

Analysis

In light of the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to end a tenancy for cause. In this case, the Landlord has provided oral testimony and documentary evidence in support of her allegations that, contrary to the tenancy agreement and the Pet Agreement, the Tenant's boyfriend moved into the rental unit in May 2016, that there are more than two dogs being kept at the rental unit, and that there is more than one vehicle parking at the rental unit.

I am satisfied that the Tenant has breached material terms of the tenancy agreement with the Landlord by permitting her boyfriend to live in the rental unit, by keeping more than two dogs at the rental unit, and by having two vehicles parked at the rental unit.

I have made this finding because the terms of the tenancy agreement and the Pet Agreement clearly limit the number of occupants, dogs, and vehicles permitted at the rental unit. Further, the Landlord's evidence was that these terms were material because of the small size of the rental unit.

Accordingly, the Tenants' Application to cancel the 1 Month Notice is dismissed.

When a tenant's application to cancel a notice to end tenancy is dismissed, section 55 of the *Act* requires that I issue an order of possession in favour of the Landlord if the

notice complies with section 52 of the *Act*. Having reviewed the 1 Month Notice, I find it complies with section 52 of the *Act*.

Accordingly, I grant the Landlord an order of possession, which will be effective on July 31, 2016, at 1:00 p.m.

Conclusion

The Tenant's Application is dismissed.

By operation of section 55 of the *Act*, the Landlord is granted an order of possession, which will be effective June 30, 2016, at 1:00 p.m. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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 07, 2016

Residential Tenancy Branch