



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPC

Introduction

This decision pertains to the Landlords' application for dispute resolution made on May 10, 2018, under the *Residential Tenancy Act* (the "Act"). The Landlords seek an order of possession for cause.

The Landlord attended the hearing before me and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The Tenants did not attend.

The Landlord testified that they served the Tenants with a Notice of Dispute Resolution Proceeding package (the "package") by attaching a copy to the front door of the address at which the Tenants live, on May 23, 2018, at 3:30 p.m. A person, "S.M.," witnessed the service. The Landlord personally observed one of the Tenants remove the package from the door a short time later.

I am satisfied that the Landlords served the Tenants with the package pursuant to section 89 (2) of the Act.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issue of this application is considered in my decision.

Issue

Are the Landlords entitled to an order of possession?

Background and Evidence

The Landlord testified that they issued a One Month Notice to End Tenancy for Cause (the "Notice"), under section 47 (1) (d) and (h) of the Act, on the Tenants on April 30, 2018, at 10:00 a.m., by posting the Notice on the Tenants' door. Service was witnessed by S.M. The Notice had an effective date of May 31, 2018. The Landlord submitted into evidence a copy of the Notice and a copy of a Proof of Service document.

The Tenants moved in April 1, 2018, and signed a written tenancy agreement (the "Agreement", submitted into evidence). The Landlord testified that, in contravention of the Agreement that prohibits keeping animals in the rental unit, the Tenants keep a pit bull in the rental unit. The Landlord submitted into evidence a handwritten letter from the Tenants acknowledging keeping a dog. The Tenants' dog runs loose without a leash. On April 30, 2018, the pit bull attacked another tenant's chihuahua, ripping off the collar.

On May 3, the Tenants' pit bull charged at another tenant. That tenant complained to the Landlord who in turn told the Tenants that they were not allowed a dog. The Tenant J.B. "was outraged" and went to the tenant complainant and threatened them. The police attended and diffused the situation. A short time later, the Tenants visited the Landlord, threatening that they "was gonna regret it" if the Landlord did not "back down."

The Landlord submitted into evidence statements from the two above-noted tenants regarding the April 30 and May 3 incidents. The Landlord testified that they spoke with the Tenants about the no pets policy five times and have written two letters. One of those letters was submitted into evidence.

On May 14, the Tenants plugged an extension cord into an electrical receptacle in the building's main hallway in order to obtain electricity for the rental unit. Upon discovering this, the Landlord told J.B. they had to remove the extension cord. J.B. became enraged and assaulted the Landlord. The police arrested J.B. and charged them with assault causing bodily harm. J.B. is currently on bail with a court ordered condition that they not contact the Landlord. The Landlord submitted into evidence a copy of a photograph of the assault injury, and provided the police file number.

The Tenants did not attend the hearing, and there is no evidence indicating that the Tenants disputed the Notice within 10 days after receiving it, as permitted by section 47 (4) of the Act.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 47 (1) of the Act permits a landlord to end a tenancy by giving notice to end the tenancy for cause. A notice given must comply with sections 47 (2) and (3) of the Act. After receiving such a notice, a tenant may dispute it by applying for dispute resolution within 10 days.

Section 47 (5) of the Act states that a tenant who does not apply for dispute resolution within 10 days is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and, that the tenant must vacate the rental unit by that date.

Section 55 (1) (b) of the Act states that a landlord may request an order of possession of a rental unit when all of the following apply: (1) a notice to end the tenancy has been given by the landlord; (2) a tenant has not disputed the notice by applying for dispute resolution; and, (3) the time for applying has expired.

In this case, the Landlords gave notice to the Tenants to end the tenancy for cause. The Notice complied with sections 47 (2) and (3). The Tenants did not apply for dispute resolution within 10 days after receiving the Notice.

Taking into consideration all of the evidence and the unchallenged testimony presented before me, and applying the law to the facts, I find on a balance of probabilities that the Landlords have met the onus of proving their claim for an order of possession for cause.

Pursuant to sections 47 and 55 of the Act, I grant an order of possession to the Landlords effective two days after service of this order on the Tenants.

As the Tenants have paid rent for June 2018, the Landlords must pro rate, and refund to the Tenants, the rent for the days after the Tenants move out.

Conclusion

I hereby grant an order of possession to the Landlords effective two (2) days after service of this order on the Tenants. This order 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 Act.

Dated: June 14, 2018

Residential Tenancy Branch