



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COOL AID SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement.

The tenant, an agent for the landlord ("agent") attended the teleconference hearing. The parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions during the hearing. The hearing process was explained to the parties and an opportunity to ask questions was provided to both parties. I have reviewed all evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

The tenant confirmed receiving the documentary evidence package from the landlord prior to the hearing and that they had the opportunity to review that evidence prior to the hearing. The tenant also confirmed that they did not submit any documentary evidence in support of their application. I find the tenant was sufficiently served according to the *Act*.

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to both parties.

Issue to be Decided

- Should the landlord be ordered to comply with the *Act*, regulation or tenancy agreement?

Background and Evidence

The tenant writes in her application “I want my dog to reside with me. There is a pet law or there is no pet law.” The landlord submitted a copy of the tenancy agreement, and other supporting documentation.

The parties reviewed term #22 of the tenancy agreement during the hearing which is the entitled “Pets”. Both parties confirmed that in handwriting below term #22 read “No pet’s allowed in this unit.” The tenant first stated that she does not recall that handwriting being on the original tenancy agreement and later stated that she does not believe she signed the tenancy agreement with that wording there because “why would I have not initialed it then?” None of the 38 terms were initialed in the tenancy agreement by either party.

The parties then reviewed a letter dated March 21, 2018 (“letter”) signed by both the tenant and the tenant’s advocate ER (“advocate”). In that letter the tenant agrees that her dog will not be present on the property, that the tenant will not attempt to sneak the dog onto the property at any time and that the tenant understands that the “prohibition of her dog is a material term of her tenancy, and that any breach of this term could result in the issuance of a One Month Notice to End Tenancy for Cause” (“1 Month Notice”). The tenant stated that she signed the letter under duress. The agent stated that the tenant was not pressured or coerced into providing the letter and that the tenant made the decision to consult an advocate to assist the tenant with the letter on her own.

The parties also reviewed a July 30, 2018 letter from Victoria Animal Control Services Ltd. which certifies that the tenant’s dog is designated a “Dangerous Dog” in the City of Victoria for life as of November 10, 2017. The agent stated that all tenancy agreements for this building have no pet clauses.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

The onus of proof is on the tenant to prove that the landlord has breached the Act, regulation or tenancy agreement.

The tenant did not submit any supporting documentary evidence such as a tenancy agreement that did not contain language regarding a no pet clause or evidence from other tenants in the building that would support that the landlord has given written permission for others to have pets on the rental property. In the matter before me, the tenant failed to submit any supporting documentary evidence. Therefore, I find landlord's documentary evidence to carry significant weight as I find the tenancy agreement term #22 states that no pets are allowed in the unit.

Furthermore, I find the tenant's testimony that the original tenancy agreement did not contain any wording regarding pets to be inconsistent with the reason why the tenant obtained the letter. I find the letter was signed by the tenant's advocate and the tenant herself and that the letter assured the landlord that the tenant would not have her dog on the property, would not attempt to sneak her dog on the property and that the pet prohibition term was a material term of the tenancy that if violated, could result in the issuance of a 1 Month Notice.

I find the tenant not to be credible based on her inconsistent testimony and afford the tenant's claim of "duress" to be unfounded. The word "duress" as defined in Black's Law Dictionary (2nd edition online) implies coercion, threat or force. I find that the letter obtained by the tenant; which was signed by the tenant and the tenant's advocate did not involve coercion, threat or force. I find that the letter was obtained by the tenant under her own free will and was signed by the tenant to support that the tenant was aware that she was not permitted to have a dog on the property and that it was a material term of the tenancy agreement. I also find that the tenant consulting with her advocate and having her advocate sign the letter supports that the tenant was acting on her own free will and not under duress.

Based on the above, **I dismiss** the tenant's application in full due to insufficient evidence, without leave to reapply.

The tenant is reminded that the landlord is entitled to issue a 1 Month Notice if the tenant violates term #22 of the tenancy agreement which I find supports that pets are prohibited as part of the tenancy agreement.

Conclusion

The tenant's application has no merit and is dismissed in its entirety.

There is insufficient evidence to support that the landlord has breached the *Act*, tenancy agreement or regulation as the tenancy agreement includes a no pet clause in term #22 of the tenancy agreement.

The tenant is reminded that the landlord is entitled to issue a 1 Month Notice if the tenant violates the no prohibition term of the tenancy agreement.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: September 18, 2018

Residential Tenancy Branch