



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package and the submitted documentary evidence in person on July 30, 2020. Both parties also confirmed the landlord served the tenant with her submitted documentary evidence in person on August 23, 2020. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?

Is the tenant entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant provided written details which states:

LL claims no pet was ever permitted. LL allowed dog and accepted pet security deposit. Dog (Coren) referenced 29 Oct 2018. Dog died on 24 Jan 2020. New puppy (Lucas) arrived 14 Mar 2020. Puppy referenced to on 9 May 2020. No pet issue ever made until 16 Jun 2020. Permitted to keep umbrella, lounge chairs, camping equip. outside door since start of tenancy. LL demanded removal. LL refused to pay for ant infestation. LL's boyfriend offered to pay for ant poison.

[reproduced as written]

Both parties confirmed that on July 24, 2020, the landlord served the tenant with the 1 Month Notice dated July 23, 2020 by posting it to the rental unit door. The 1 Month Notice sets out an effective end of tenancy date of August 31, 2020 and that it was being given as:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The details of cause state:

On June 11, 2020 I emailed W. asking for documentation that he had showing that he had secured written consent for his puppy per our lease agreement. He did not provide any such written consent. He replied that he had paid a pet damage deposit and felt that was the required written consent. At the beginning of his tenancy in November of 2018. W. paid a pet deposit for a service dog that was approved to reside in my suite. That dog passed away in early 2020. At some point after that, W. brought home a puppy. I did not get the opportunity to do a Condition Inspection Report prior to the puppy moving into the suite as I was not asked or informed of the puppy's pending arrival. On June 16th, I emailed him and then served proper notice by attaching a copy of the email to his door (I have photo of same) letting him know that the puppy breached a material term of his lease and that he had 14 days to remove the puppy or I would have to serve notice to end tenancy. Following the 14 days, the puppy was not removed, but the province was under a State of Emergency and at that time, I believed that I was unable to serve a notice to end tenancy. Since then guidelines have changed. I am now able to serve the notice for breaching a material term of the lease.

Further to this, I sent W. an email (and served properly the next day, with photos) asking him to clean up his property from the common area and the items that he stored in the garage against our lease terms (I agreed to store his tires only) He has also not

complied with this request. I move his items out of the garage on the final day that I had given for his clean up.

W. also deducted the cost of ant bait from his last rent cheque believing that I should pay for it. I returned his rent cheque and requested that he pay the full amount owing per the terms of our lease. W. paid his rent after coercing my fiancé into paying cash to him (W.) for the ant bait and only then did W. endorse the cheque for the full amount to me (I have a copy of the "blackmail" note) I believe this was on or around the 10th of July.

On July 14th, W. sent me an email in which he claimed that he had made verbal agreement with my ex-husband about access, that he is being psychologically abused, intimidated, harassed and coerced. He also threatened to seek aggravated damages if and when a dispute resolution is filed. I believe that W. is unhappy that I am enforcing the terms of the lease that he has signed and agreed to. I believe that the lease is in place for this exact purpose. I am only trying to protect and maintain my property that I have worked so hard to attain.

[reproduced as written]

The landlord claims that the tenant failed to get the written consent of the landlord to obtain a pet (dog).

The tenant argues that the original signed tenancy agreement allows for a dog and that the landlord agreed to rent the unit to him at the outset with a dog as shown in tenancy agreement by the landlord accepting a pet damage deposit of \$300.00.

The landlord has argued that the tenant's original pet had died and that permission was required for the tenant to obtain a new dog.

Analysis and Conclusion

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on January 31, 2021, by which time the tenant will have vacated the rental unit.

The landlord agreed to cancel the 1 Month Notice to End Tenancy dated July 23, 2020.

The tenant agreed to withdraw the application for dispute.

Both parties also agreed that beginning October 1, 2020 until the end of tenancy, the tenant shall provide to the landlord post dated rent cheques for each month.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue an Order of Possession to be used by the landlord if the tenants fail to vacate the rental premises in accordance with their agreement by 1:00 pm on January 31, 2021. The landlord is provided with these orders in the above terms and the tenant(s) must be served with this Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. Should the tenants fail to comply with this Order, the Order may be filed 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: September 01, 2020

Residential Tenancy Branch