



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 47; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Landlord confirms that its email as set out in the Tenant’s application is correct.

Preliminary Matter

The Landlord states that it received evidence late from the Tenant. The Landlord was offered an opportunity to request an adjournment if the Landlord required more time to read and respond to the late evidence. The Landlord declined the adjournment.

Issue(s) to be Decided

Is the notice to end tenancy valid for its stated reason?

Relevant Background and Evidence

The following are agreed or undisputed facts: the tenancy started on October 15, 2018. Rent of \$960.00 is currently payable on the first day of each month. At the outset of the tenancy the Landlord collected \$450.00 as a security deposit. On July 17, 2020 the Landlord served the Tenant with a one month notice to end tenancy for cause (the

“Notice”) by posting the Notice on the door. The Tenant found the Notice in the flower bed on July 20, 2020. The reason stated on the Notice is “Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so”.

The Landlord states that the Tenant breached two material terms: one in relation to pets and one in relation to parking a recreational vehicle. The Landlord states no specific letter about a breach of a material term was sent in relation to the breaches and that the Landlord only sent a number of emails and texts referring to the breaches. The Landlord provides copies of those emails.

Analysis

Section 47(1)(h) of the Act provides that a landlord may end a tenancy by giving notice to end the tenancy if the tenant

- (i) has failed to comply with a material term, and
- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

Residential Tenancy Branch (the “RTB”) Policy Guideline #8 provides that to end a tenancy agreement for breach of a material term the party alleging a breach, whether landlord or tenant, must inform the other party in writing:

- that there is a problem;
- that they believe the problem is a breach of a material term of the tenancy agreement;
- that the problem must be fixed by a deadline included in the letter, and that the deadline be reasonable; and
- that if the problem is not fixed by the deadline, the party will end the tenancy.

There is nothing in any of the emails provided as evidence that sets out any breach of a material term in relation to pets and nothing that sets out any term of the tenancy agreement in relation to the parking of a recreational vehicle. Nothing in any of the emails that provides a reasonable deadline to correct the breach in relation to the pets.

I note that one email in relation to the recreational vehicle sets out that it must be moved immediately and no emails in relation to pets sets out any deadline. I do not consider immediate action to be a reasonable deadline. Ending a tenancy is a serious matter that requires adherence to the Act and policy in relation to the provision of a formal breach letter. Based on the Landlord's own evidence I find that the Landlord did not meet this requirement. For this reasons I find that the Notice is not valid, and I cancel the Notice. The tenancy continues. As the Tenant has been successful with its claim to cancel the Notice, I find that the Tenant is entitled to recovery of the **\$100.00** filing fee and the Tenant may deduct this amount from future rent payable in full satisfaction of the claim.

Conclusion

The Notice is cancelled, and the tenancy continues.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: September 04, 2020

Residential Tenancy Branch