



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OLC

Introduction

The tenant applied to dispute a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to section 47(4) of the *Residential Tenancy Act* (“Act”). In addition, they had sought an order pursuant to section 62(3) of the Act.

A hearing was held by teleconference on June 15, 2021 at 11:00 AM. Only the landlord’s legal counsel attended the hearing, which ended at 11:12 AM.

Issues

1. Is the tenant entitled to an order cancelling the Notice?
2. Is the tenant entitled to an order under section 62(3) of the Act?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

Landlord’s legal counsel (hereafter “landlord” for brevity) confirmed that the Notice was served on the tenant by registered mail on February 17, 2021, delivered on February 19, and picked up by the tenant on March 7. A copy of the Notice was submitted into evidence, as was a copy of the written tenancy agreement. An addendum – which was in evidence – to the tenancy agreement indicated that no pets were permitted.

The landlord testified that despite the “no pets” clause in the tenancy agreement, the had a dog. Copies of text and email correspondence between the tenant and persons acting for the landlord substantiated the existence of the tenant’s dog. In addition, there was in evidence a photograph of the dog.

The Notice was given for nine reasons, one of which was on the basis that the tenant breached a material term of the tenancy agreement. Namely, that the tenant had a dog when he was prohibited from so having one. The tenant was asked repeatedly to pay a pet damage deposit if he wanted to keep the dog. He never paid the deposit.

Analysis

Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based.

Section 47(1)(h) of the Act states that “A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies: [. . .] 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.”

In this dispute, the uncontested documentary evidence persuades me to find that the tenant failed to comply with a material term and that he did not correct the situation within a reasonable time after being given written notice to do so. As such, I find that the Notice was issued in compliance with this section of the Act. Further, having reviewed the Notice, I find that it complies with section 52 (that is, form and content) of the Act.

Section 55(1) of the Act states that

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Pursuant to section 55(1) of the Act, then, having found that the Notice complies with section 52 of the Act, and, having upheld the Notice, I therefore grant to the landlord an order of possession. A copy of this order is issued, in conjunction with this decision, to the landlord.

Lastly, regarding the tenant's application for an order under section 62(3) of the Act, having heard no evidence or testimony from the tenant on this point, I dismiss this aspect of his claim without leave to reapply.

Conclusion

I HEREBY:

- 1. dismiss the tenant's application, without leave to reapply; and,**
- 2. grant an order of possession to the landlord, which they must serve on the tenant (if necessary). The order of possession is effective two days from the date of service. The order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.**

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: June 15, 2021

Residential Tenancy Branch