



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 as a result of the Tenants' Application for Dispute Resolution made on August 30, 2022. The Tenants applied for an order cancelling a One Month Notice to End Tenancy for Cause dated August 23, 2022 (the One Month Notice) and to recover the filing fee, pursuant to the Residential Tenancy Act (the Act).

The Tenants attended the hearing on their own behalf. The Landlords were represented at the hearing by GC, an agent. All in attendance provided a solemn affirmation at the beginning of the hearing.

On behalf of the Tenants, RO testified that the Notice of Dispute Resolution Proceeding package was served on the Landlords by registered mail on September 15, 2022. GC acknowledged receipt on behalf of the Landlords. With respect to the Landlords' documentary evidence, GC testified that it was served on the Tenants by registered mail on October 17, 2022. The Tenants acknowledged receipt.

No issues were raised with respect to service or receipt of the above documents during the hearing. The parties were in attendance or were represented and were prepared to proceed. Therefore, pursuant to section 71 of the Act, I find the above documents were sufficiently served for the purposes of the Act.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

1. Are the Tenants entitled to an order cancelling the One Month Notice?
2. Are the Tenants entitled to an order granting recovery of the filing fee?

Background and Evidence

All in attendance agreed the tenancy began on April 15, 2022. Rent of \$1,500.00 per month is due on the first day of each month. All in attendance agreed the Tenants paid a security deposit of \$750.00 and a pet damage deposit of \$250.00, both of which are held by the Landlords. A copy of the tenancy agreement, signed only by the Tenants, was submitted into evidence.

On behalf of the Landlords, GC testified the One Month Notice was served on the Tenants in person on August 23, 2022. The Tenants acknowledged receipt on that date. The One Month Notice submitted into evidence is signed and dated, gives the address of the rental unit, states an effective date, states the grounds for ending the tenancy, and is in the approved form.

The One Month Notice was issued on the basis that the rental unit must be vacated to comply with a government order. Specifically, GC testified that the Tenants advised in a text message dated April 2, 2022 that they had one small dog. However, GC testified that the Tenants obtained a second dog after the tenancy began. As the upstairs tenants already had two dogs, this brought the total number of dogs at the rental property to four, which contravened the city bylaw respecting the number of pets permitted on a property. A copy of the bylaw was submitted into evidence.

GC also referred to an email from Animal Control dated September 23, 2022. In it, the writer references the relevant bylaws, provides an explanation of the bylaws, and describes the penalty for excess pets as \$100.00 per day that the offence occurs.

The Landlords also provided an email from Animal Control dated October 14, 2022. In it, the writer indicates that there was evidence to support an allegation of an excess number of dogs at the rental property, provided the relevant bylaw provisions, and indicated that the Landlords may be subject to a fine of \$100.00 for each day the offence occurs.

In reply, RO testified that there is no order from the city. RO also testified that the Tenants moved in with two dogs on April 15, 2022, and that the upstairs tenants moved in with their two dogs on May 1, 2022. RO suggested the Tenants were there first and should have priority.

In addition, JB testified that the Landlords were advised by telephone that each Tenant would be bringing a dog to the rental property. The parties also made submissions with respect to the dates the tenancy agreements were signed.

Analysis

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

Section 47(1)(k) of the Act permits a landlord to take steps to end a tenancy to comply with an order of a federal, British Columbia, regional or municipal government authority.

In this case, I find there is insufficient evidence before me to grant the relief sought. The Landlords submitted into evidence copies of correspondence from an Animal Control authority describing a contravention of a bylaw and advising of the penalty for each day the offence occurs. The Landlords did not submit an order from the city.

Considering the above, I find that the One Month Notice is cancelled and is no force or effect. The tenancy will continue until otherwise ended in accordance with the Act.

As the Tenants have been successful, I find they are entitled to recover the \$100.00 filing fee paid to make the application. I order that \$100.00 may be deducted from a future rent payment at the Tenants' discretion.

Conclusion

The One Month Notice is cancelled and is no force or effect. The tenancy will continue until otherwise ended in accordance with the Act.

The Tenants may deduct \$100.00 from a future rent payment in satisfaction of the filing fee paid to make the application.

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: November 9, 2022

Residential Tenancy Branch