



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC

Introduction

The tenant applied on November 9, 2022, for an order cancelling a one month notice to end tenancy for cause (the “Notice”) pursuant to section 47 of the *Residential Tenancy Act* (the “Act”).

The landlord and tenant both agreed that the landlord first attempted to serve the tenant with the landlord’s evidence on March 17, 2023. Under the *Rules of Procedure* (the “Rules”), the landlord needed to serve the tenant with the landlord’s evidence by March 15, 2023. The tenant affirmed that the tenant only received the landlord’s evidence on March 21, 2023. The tenant’s advocate, however, demonstrated familiarity with the landlord’s evidence and was able to make submissions in regards to the evidence. Therefore, I find that the landlord’s failure to serve the landlord’s evidence on the tenant in accordance with the Rules does not prejudice the tenant and I will consider the evidence.

Issue(s) to be Decided

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the Rules. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began September 1, 2020. Rent is \$836.00 due on the first day of the month. The landlord currently retains a \$410.00 security deposit. There is a copy of the written tenancy agreement in evidence.

The landlord served the Notice on November 1, 2022 by delivering to the tenant in person, who was there to receive it. Page two of the Notice indicates that the tenant or a person permitted on the property by the tenant has (i) put the landlord's property at significant risk; (ii) engaged in illegal activity that has, or is likely to damage the landlord's property; and (iii) engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the landlord. All pages of the Notice were served and submitted into evidence.

The landlord affirmed that the Notice was issued because the tenant had four dogs living in the rental unit, which was in contravention of Chilliwack City bylaw #1206 ("Bylaw #1206"). Bylaw #1206 limits the number of dogs on any real property to three. The landlord further affirmed that the Notice was also issued because the tenant was operating a business out of her rental unit. The landlord did not provide any evidence in relation to the condition of the rental unit.

The tenant affirmed that she had four dogs in her rental unit until she was informed by animal control that she was only allowed to have three dogs. The tenant further affirmed that she managed to move out one of her dogs within two weeks of being notified by animal control and now only has three dogs in the rental unit.

Analysis

Pursuant to Rule 6.6 of the Rules, the landlord bears the burden to prove the landlord has valid grounds to terminate the tenancy for cause. The landlord must show on a balance of probabilities, that the tenancy should be ended for the reasons identified in the Notice. In the matter at hand, the landlord must demonstrate that the tenant or a person permitted on the property by the tenant has:

- (i) put the landlord's property at significant risk;
- (ii) engaged in illegal activity that has, or is likely to damage the landlord's property; and
- (iii) engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the landlord.

According to Policy Guideline #32, in considering whether or not the illegal activity is sufficiently serious to warrant terminating the tenancy, consideration would be given to such matters as the extent of interference with the quiet enjoyment of other occupants, extent of damage to the landlord's property, and the jeopardy that would attach to the activity as it affects the landlord or other occupants.

There was nothing in the documentary evidence or oral testimony that shows how the landlord's property is at significant risk. The landlord did not provide any documentary evidence or oral testimony relating to the extent of damage to the landlord's property, if any. In addition, all the documentary evidence the landlord submitted in relation to the quiet enjoyment of other occupants relate to noise complaints emanating from another unit rather than the tenant's rental unit.

I find that the landlord has not provided sufficient evidence to show the tenant's dogs and alleged business put the landlord's property at significant risk, damaged the landlord's property or has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the landlord.

The landlord has not proven that the Notice was issued for a valid reason. As a result, I am cancelling the Notice.

Conclusion

The tenant's application is granted and the tenancy shall continue until it is ended in accordance with the Act.

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: March 24, 2023

Residential Tenancy Branch