



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

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DECISION

Dispute Codes: CNC OLC FFT OPC

Introduction

The tenants seek an order cancelling a notice to end tenancy, an order for compliance, and a claim to recover the cost of two application fees, pursuant to the *Residential Tenancy Act* (the “Act”). By way of cross-application the landlord seeks orders of possession on four notices to end tenancy.

Preliminary Issue: Volume of Applications and Limited Duration of Hearing

The tenants filed two applications under the Act and the landlord filed four applications under the Act. All six applications were set down for a one-hour-long hearing on September 15, 2023. From a case-management perspective, it is both unrealistic and impractical for an arbitrator to have sufficient opportunity to consider the merits of all six applications in 60 minutes. Nor would it be consistent with the purpose of efficient dispute resolution hearings (see *Rule 1.1 – Objective*, of the *Rules of Procedure*) to adjourn multiple times to hear all six applications.

As such, I exercise my broad discretion as an arbitrator under the Act and the *Rules of Procedure* in determining how these applications will be heard and have determined that the only issue to be decided is whether the One Month Notice to End Tenancy for Cause, served on June 17, 2023, is valid and effective.

The remainder of the notices to end tenancy issued by the landlord are ordered cancelled and are of no legal force or effect, and the applications for orders of possession are dismissed. Similarly, the tenants' applications for orders of compliance (for files ending in 560 and 009) are dismissed.

While it is not lost on me that the parties are frustrated with the overall process for resolving disputes, the practicality of dealing with a high number of applications in one hearing can only be readily resolved through limiting the issues before the decision-maker.

Issue

Are the tenants entitled to an order canceling the One Month Notice (the "Notice") dated June 17, 2023?

Background and Evidence

In a dispute resolution proceeding, the applicant must prove their claim on a balance of probabilities (meaning "more likely than not"). I have considered the parties' testimony, arguments, submissions, and documentary evidence, but will only refer to evidence that I find relevant and necessary to explain the decision.

The landlord testified under oath that he served the Notice on the tenants on June 17, 2023, by email. The Notice indicated that it was being served because, as stated on page 2 of the Notice, the tenants have "significantly interfered with or unreasonably disturbed another occupant or the landlord."

The significant interference and unreasonable disturbances consist of the tenants' dog running around the property unleashed. Another tenant made complaints in mid-2022 about the dog "Momo" running around.

They complained that it was “unacceptable” that the dog was running amok. The landlord then sent a demand letter in June 2022 for the tenants to leash Momo. The landlord testified that Momo was an aggressive dog that does not respond to verbal commands. The dog barks at people and urinates where it not supposed to.

The landlord’s witness testified that the tenant (K.M.) told her that he would not be following the rules about leashing the dog. The witness further testified that, in one incident, their grandkid accidentally slipped on the dog’s feces and ended up being covered in the feces.

The tenants testified that the Notice, along with all the others, is a continuation of the landlord’s efforts to harass the tenants and force them out of their home. He testified that the dog is never left unattended and that it was always permitted to go off-leash in the common areas. Further, the tenant questioned why the Notice was issued only now when the purported problems occurred in 2022.

Analysis

The landlord issued the Notice under subsection 47(1)(d)(i) of the Act, which states that a tenant has “significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.”

While the landlord and his witness provided extensive testimony about the various problems with Momo, including barking, running around off-leash, and an isolated but unfortunate incident involving a young child slipping on feces, what is markedly absent from any of this testimony and the documentary evidence, is *any* persuasive argument that the landlord or another occupant was significantly interfered with or unreasonably disturbed by the dog’s behavior.

A landlord intending to end a tenancy because of the existence of such circumstances must draw a line from those facts as premises to support an explicit and clear conclusion that someone else was significantly interfered with or unreasonably disturbed. The landlord did not call any other tenants of the property as witnesses to testify as to whether they have been unreasonably disturbed by Momo.

In short, I am simply not persuaded that, while Momo may relieve itself where it ought not to, and while it may bark at passersby and run leash-free, either the landlord or another occupant of the property has been *significantly* interfered with or unreasonably disturbed.

For these reasons, I do not find on a balance of probabilities that the landlord has proven a subsection 47(1)(d)(i) ground for issuing the Notice. As such, the Notice is hereby ordered cancelled effective immediately. The tenancy shall continue until it is ended in accordance with the Act.

The tenants are entitled to recover the cost of the application in respect of their dispute of the Notice, and are, pursuant to section 72 of the Act, to deduct \$100 from their next payment of rent.

Conclusion

The tenants' application to cancel the Notice is granted and the One Month Notice to End Tenancy for Cause, served June 17, 2022, is ordered cancelled.

As noted above, all remaining notices to end tenancy (dated/served on or about June 16, June 20, and June 25, 2023) are ordered cancelled.

This decision is final and binding, and it is made on delegated authority under section 9.1(1) of the Act. A party's right to appeal this decision is limited to grounds provided

under section 79 of the Act or by an application for judicial review under the *Judicial Review Procedure Act*, RSBC 1996, c. 241.

Dated: September 16, 2023

Residential Tenancy Branch