



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: O

Introduction

This hearing was scheduled in response to an application by the tenants. The application arises out of a disagreement between the tenants and the landlords around the interpretation of the pet clause contained in the tenancy agreement. Both parties participated and / or were represented in the hearing and gave affirmed testimony.

Background and Evidence

There are written tenancy agreements in evidence between the landlords and some of the tenants named in this application. The tenancy agreements appear to have in common a provision concerning pets, as follows:

The tenant shall not keep or shelter in the premises any dog, cat or other animal nor shall birds be fed from or in close proximity to the premises.

While the tenants take the position that the above provision does not preclude them from having a visitor bring a pet onto the premises during a visit, the landlord disagrees.

Specifically, the landlords corresponded with tenant "T.D." in letters written by the Administrator and dated, respectively, July 9, 2012 and September 11, 2012. Both letters are headed – "Bylaw Contravention – Warning Notice." Subsequently, by letter from the Administrator dated September 20, 2012, the warning notice in the second letter was withdrawn; this withdrawal was the result of the landlords' determination that "it was not a guest of yours that brought a dog onto the premises on August 28, 2012."

Further, in response to written inquiries from tenant "T.D." to the landlords around the interpretation of the pet clause, by letter dated September 11, 2012, the Administrator stated, in part:

I regret to advise that the landlord's board of directors are not prepared to discuss or hold a meeting about pets on the premises. The Tenancy Agreement is clear: "No pets are allowed in the building..."

Take notice that if the landlord learns of any pet infractions by tenants or their guests, the Tenancy Agreement will be enforced. A warning letter will be given, but if the warning is ignored, the landlord may consider taking further action, including applying for arbitration for the tenant's breach of the Tenancy Agreement.

There is no evidence before me that the landlords have thus far issued a 1 month notice to end tenancy for cause to any of these tenants in relation to this particular matter.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca Below, the attention of the parties is drawn to particular sections of the Act and the Guidelines.

Section 18: Terms respecting pets and pet damage deposits

Guideline # 8: Unconscionable and Material Terms

Guideline # 28: Pet Clauses

Section 6 of the Act speaks to **Enforcing rights and obligations of landlords and tenants**, as follows:

6(1) The rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement.

(2) A landlord or tenant may make an application for dispute resolution if the landlord and tenant cannot resolve a dispute referred to in section 58(1) *[determining disputes]*.

(3) A term of a tenancy agreement is not enforceable if

- (a) the term is inconsistent with this Act or the regulations,
- (b) the term is unconscionable, or

- (c) the term is not expressed in a manner that clearly communicates the rights and obligations under it.

Section 47 of the Act speaks to **Landlord's notice: cause**. As previously stated, there is presently no evidence of a notice to end tenancy for cause having been issued by the landlord in relation to the issue of pets on the premises. In the event that such notice is issued, either party would have the option of applying for dispute resolution.

Section 58 of the Act speaks to **Determining disputes**, and provides in part as follows:

58(1) Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

- (a) rights, obligations and prohibitions under this Act, or
- (b) rights and obligations under the terms of a tenancy agreement that
 - (i) are required or prohibited under this Act, or
 - (ii) relate to
 - (A) the tenant's use, occupation or maintenance of the rental unit, or
 - (B) the use of common areas or services or facilities.

In the event that a notice to end tenancy is issued and applications are subsequently made for dispute resolution, a hearing would be scheduled. Based on the documentary evidence and testimony, the particular circumstances surrounding the dispute, and in consideration of the applicable legislative provisions and Guidelines, the dispute resolution officer would make findings by way of issuing a formal, written decision.

Conclusion

No action has presently been taken by the landlords which would lead me to make findings pursuant to the legislation, as a result of the tenants' applications. In the meantime, the parties have the option of exploring directly between them whether a mutually agreeable resolution of all or part of the dispute may be achieved. In the

result, this decision is limited to providing a summary of the broad dispute, and referring the parties to certain related provisions in the legislation and Guidelines for information.

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 2, 2012.

Residential Tenancy Branch