



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: CNL, FF

Introduction

This hearing dealt with the tenant's application to cancel a Notice to End Tenancy for landlord's use. The tenant was also seeking to recover the cost of the filing fee paid for this application. Both parties appeared at the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Whether there are grounds to set aside and cancel the Notice to End Tenancy.

Background and Evidence

Upon review of the evidence before me, I find that the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property (the Notice) on august 10, 2008. The Notice indicated that the reason for ending the tenancy was that

- The landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

The agent testified that the rental unit was treated for bed bugs by an exterminator; however, upon receiving an opinion that bed bugs may still remain despite the treatment, the owner wished to have the rental unit vacated so that the carpet, underlay, and baseboards could be removed and kitchen cupboards dismantled and more chemicals applied to ensure the bed bugs are eradicated.

The tenant testified that since the pesticide treatment of July 7, 2008 no bed bugs have been seen in her rental unit and on July 16, 2008 the pesticide technician returned to the rental unit and did not find any bed bugs. The tenant expressed a strong desire to remain in the rental unit due to the low vacancy rate in Kamloops and having three children. The tenant testified that she had enquired with other exterminators who advised her that taking up carpets and dismantling cabinets was not necessary to treat bed bugs.

The parties were in agreement that the tenant had removed furniture from the rental unit in order to aid in the successful treatment of the bed bugs.

Analysis

Upon hearing testimony from the tenant that no bed bugs have been detected in the rental unit since the initial treatment, the onus to prove bed bugs exist and that further treatment is necessary is that of the landlord. Also, in order for the landlord to be successful in obtaining an end to this tenancy, the landlord would have to demonstrate that the rental unit needs to be vacant in order to treat the rental unit for bed bugs.

I find that the landlord has provided insufficient evidence to establish that bed bugs remain in the rental unit and that the rental unit needs further treatment. Even if further treatment were required, the landlord has not provided sufficient evidence that vacant possession of the rental unit is required in order to treat bed bugs.

As the landlord has not established a need for vacant possession of the rental unit in order to perform repairs I cancel the Notice with the effect that this tenancy shall continue.

As the tenant was successful with this application, I award the filing fee to the tenant. The tenant may deduct \$50.00 from a subsequent month's rent in satisfaction of this award.

Conclusion

The Notice to End Tenancy issued August 10, 2008 is set aside and cancelled.

The tenant may recover the filing fee by reducing a subsequent month's rent by \$50.00.

September 11, 2008

Date of Decision
