



Dispute Resolution Services

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

Decision

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenants to cancel a one month notice to end tenancy for cause. Two tenants, the landlord, an advocate for the landlord and two witnesses for the landlord all participated in the teleconference hearing.

The tenant submitted evidence that the landlord did not receive. The evidence of the tenants was that they mailed the documents by registered mail on July 2, 2009. The landlord stated that she had received a card notifying her of mail to be picked up, but she had not had an opportunity to pick it up. I admitted the tenants' evidence, and informed the landlord that if the tenants referred to portions of their documentary evidence that the landlord was not familiar with or objected to, the landlord should raise their objection in the hearing. The tenants made little reference to their documentary evidence in the hearing, and the landlord did not raise any objections to the tenants' documents. In reaching my decision in this matter, I placed more weight on the evidence to which the opposing parties were able to respond, and found the documentary evidence of the tenants to have little or no relevance.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The rental unit is one of 4 units in a complex. The tenants of the rental unit in question are DS, DS's parents SS and LS, and DS's nephew AS. On February 3, 2009, DS called the landlord to advise that they suspected there were bedbugs in their suite. On February 5, 2009 a pest management company confirmed the presence of bedbugs in the suite. No bedbugs were detected in any of the other three units at that time. On February 16, 2009 the entire complex was treated for bedbugs, with the exception of AS's bedroom. On February 25, 2009 a follow-up inspection was conducted and no live bedbug activity was detected.

On April 16, 2009, DS told the landlord that they suspected bedbugs in their suite again. On April 21, 2009 the pest management company attended at the complex to inspect. DS refused to allow entry into her suite at that time. The three other units in the complex were inspected, and the suite directly above DS's unit was found to contain bedbugs. On May 4, 2009 the entire complex was again treated for bedbugs. An inspection on May 11, 2009 found no live bedbugs.

On May 21, 2009 the tenants directly above DS complained about new bedbugs. An inspection found signs of bedbugs in the suites of DS and the suite directly above DS. The tenants in the three other suites complained to the landlord about the continuing bedbug problem. On May 22, 2009 the landlord served the tenants with a one month notice to end tenancy for cause.

The evidence of the landlord regarding cause to end the tenancy was as follows. The landlord believed that the tenants of the rental unit in question were responsible for re-introducing bedbugs into the complex. The tenants did not allow their entire suite to be sprayed on the first occasion. On April 21, 2009 the reason DS gave for not allowing an inspection of their premises was that LS and AS were sleeping, and the landlord had not given the tenants written 48 hours notice. The landlord stated that until that time they had always given the tenants notice over the phone, and the tenants had not requested written notice before April 21, 2009.

The employee of the pest management company who conducted the inspections and treatments expressed his opinion that the tenants in the rental unit in question were the cause of the re-introduction of the bedbugs, because theirs was the first suite to be infected and because they did not follow all of the proper procedures to effectively eliminate the bedbugs.

Further, on May 4, 2009 one of the tenants, SS, told the landlord that her other daughter (not DS), who lived elsewhere, was the one who had bedbugs. Then, on May 11, 2009, LS told the landlord that his wife SS was the one bringing home the bedbugs, because she had been out drinking in the Downtown Eastside and then staying with her other daughter (who had bedbugs). A witness for the landlord was present for the conversation between the landlord and LS, and verified that this was what LS told the landlord.

The response of the tenants was as follows. The tenants did not fully participate in the first bedbug treatment because of a misunderstanding about how to prepare for the treatment. The tenants did not allow the inspection of their unit on April 21, 2009 because they had requested but did not receive prior written notice. The tenants have since fully complied with inspections and treatments. The tenants do not feel that it is relevant who introduced the bedbugs.

Analysis

When a landlord issues a notice to end tenancy for cause, it is the landlord who bears the burden of proving that they have sufficient cause to end the tenancy. In this case, I am not satisfied that the landlord provided sufficient evidence to establish that the tenants significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, or put the landlord's property at significant risk. The statement from LS regarding his wife SS being the source of the bedbugs is not adequate proof that SS in fact was re-introducing the bedbugs. I do not find the pest management employee's

opinion to provide sufficient concrete evidence to conclude that these tenants were in fact responsible for the bedbugs or the re-introduction of the bedbugs. I therefore find that the notice to end tenancy is not valid.

I note that the tenants must fully cooperate with inspections and treatments, or the landlord may have cause to issue a new notice to end tenancy. If the tenants prior written notice the landlord must comply with that request. If the landlord establishes sufficient direct evidence to establish that the tenants are continuing to re-introduce bedbugs, or that the tenants are breaching the Act through other behaviour that seriously jeopardizes the health and safety of other occupants or puts the landlord's property at risk, the landlord may have cause to issue a new notice to end tenancy.

Conclusion

I cancel the notice to end tenancy for cause, with the effect that the tenancy continues.

Dated July 10, 2009.