



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MT, CNC

Introduction

This hearing was brought by the tenant to cancel a Notice to End Tenancy for cause and to allow more time to make an application to cancel the landlords Notice to End Tenancy.

Service of the hearing documents was done in accordance with section 89 of the *Act*. The landlords' agent confirmed they had received them and appeared at the hearing held today along with the tenant and his representative. The landlord's administrative assistant also appeared as a witness.

Issues(s) to be Decided

- Is the tenant entitled to more time to file an application for dispute resolution?
- If the tenant is successful in applying for more time, has the tenant provided sufficient evidence that the Notice to End Tenancy for cause can be cancelled?
- Is the landlord entitled to an Order of Possession based on the evidence provided to end the tenancy?

Background and Evidence

This tenancy started on October 15, 2003. The tenant occupies a bachelor suite in the building and his rent is \$440.00 per month. The landlord issued the tenant with a One

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Month Notice to End Tenancy for Cause due to an ongoing issue with a bedbug infestation. The grounds on the one month Notice cited the reasons as the tenant has seriously jeopardized the health, safety or lawful right of another occupant or the landlord and has put the landlords' property at significant risk. This Notice was issued on May 22, 2009. The tenant had 10 days to dispute this Notice and apply for Dispute Resolution. The tenant did not apply to dispute this Notice until June 12, 2009.

The landlords have provided a substantial amount of documentary evidence to support their 10 Day Notice to End Tenancy. This includes numerous requests for the tenant to prepare his suite for the technician to treat the suite to eradicate the bedbugs.

Numerous letters were sent to the tenant stating that the tenant had not prepared his suite to allow the pest control technician to undertake treatment of the bedbugs and further treatments were rescheduled. A total of five separate treatments with a follow up treatment have been completed on the tenants' suite in the last 22 months. The landlords letter directs the tenant to section 32 (2) of the *Residential Tenancy Act* that states that a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit. The landlords have stated in their evidence that the bedbugs were infesting other rental suites and found it hard to eradicate them as they tenant did not fully comply with the required measures for treatment to his suite.

The landlord has requested to have the One Month Notice to End Tenancy upheld and seeks an Order of Possession in the event that the tenants' application is denied.

Analysis

Based on the documentary evidence and by the tenants own submissions, I find that the tenants was served a one Month Notice to End Tenancy for cause on May 22, 2009.

The tenant did not dispute this Notice within 10 days of receiving it. Rather, the tenant

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applied to dispute the Notice on June 15, 2009, 20 days after receiving it. The *Residential Tenancy Act* section 66(1) allows me to extend the time an application can be made if the applicant can provide sufficient evidence of an exceptional circumstance leading to the late filing of his application. In this instance the tenants' representative explains that she was trying to negotiate with the landlords about resolving the issues relating to the landlords reasons for the Notice to End Tenancy prior to applying for Dispute Resolution.

The Notice clearly states that the tenants have a right to dispute the Notice and must have serious and compelling reasons to file an application later then 10 days after receiving the Notice. Therefore, due to the above I find that the tenant is unable to provide evidence of any exceptional circumstances why he did not file an application to dispute the Notice within 10 Days. If the tenant had filed an application within the 10 days he could have then continued to negotiate with the landlord prior to the commencement of a hearing if he so wished. Accordingly, I therefore dismiss the tenants' application for an extension of time to apply.

The landlord has requested an Order of Possession based on the One Month Notice to End Tenancy issued on May 22, 2009. Based on the evidence presented and on the above issues for dismissal of the tenants application I find that the landlord is entitled to an Order of Possession. The tenants' representative argues that they need more time to find alternative accommodation for the tenant and requests that the Order of Possession takes effect on September 01, 2009. The landlord feels they have given the tenant sufficient time since the Notice was issued and agree an extension of time until July 31, 2009. Therefore, I grant an Order of Possession to take effect on July 31, 2009



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Conclusion

The tenants' application is dismissed in its entirety. The One Month Notice to End Tenancy for Cause will remain in force and effect.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on or before July 31, 2009. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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: July 17, 2009.

Dispute Resolution Officer