

## **DECISION**

Dispute Codes      CNC, MNDC, RP, FF, OPC

### Introduction

This is an application by the Tenant to cancel a notice to end tenancy for cause, a request for a monetary order for compensation, an order to the Landlord to make repairs to the unit. The Landlord has made an oral request to join with another file regarding the Landlord's application from a future date regarding their dispute to end tenancy. The Tenant and Landlord are both seeking to recover the cost of their filing fee. Both parties appeared by conference call and gave affirmed testimony.

### Issues(s) to be Decided

Is the Landlord entitled to join their application with the Tenant's?

Has the Landlord shown cause to end the tenancy?

Is the Tenant entitled to a monetary order for compensation?

Has the Tenant shown that the Landlord is negligent and should make repairs to the unit?

### Background and Evidence

This Tenancy began on May 1, 2009 on a fixed term residency until October 31, 2009. The monthly rent \$1,000.00 payable on or before the 1<sup>st</sup> of each month. Upon the conclusion of the fixed term, the residency became a month to month term. A security deposit of \$500.00 was made at the beginning of tenancy.

As the request to join both files did not occur until the date of the hearing, evidence becomes an issue. The Tenant was only just served on the day this hearing with the

Landlord's evidence. The Landlord has not filed any evidence with the Residential Tenancy Branch. I notified the Landlord that as such the evidence submitted this day to the Tenant could not be relied upon definitely. The Landlord wished to proceed without the evidence and have their joined application heard today. I note also for the record that the Tenant's application speaks to the application to cancel the notice to end tenancy by the Landlord. As such, I find that the files can be joined today.

The Landlord served a 10 day notice to end tenancy dated October 4, 2010 for unpaid rent. Both parties have failed to address this during the hearing. As such, I will not be addressing this issue. The Landlord has also served notice on the Tenant with a 1 month notice to end tenancy for cause dated September 13, 2010, specifically relating to the Tenant giving false information to prospective tenants. This evidence was filed by the Tenant in support of their application. I note during the hearing that the Tenant stated that under his observation a prospective tenant was viewing a unit for rent and that he made a statement of "they don't fix anything here" to the prospective tenant. Since no direct evidence was brought forward by the Landlord for this issue, I will not be addressing this issue as well.

In the Landlord's evidence another 1 month notice to end tenancy for cause dated September 16, 2010 was served. This notice referred to the Tenants seriously jeopardizing the health and safety of other tenants, building staff and the Landlord. The Landlord states that the Tenants were abusive to herself and cleaning staff on numerous occasions. The Landlord stated during the hearing that there was an occasion when the property manager received a personal threat from one of the Tenants. This personal account made by the property manager resulted in the presence of police to facilitate the payment of the monthly rent. The Tenant denies all the allegations of threats.

The Tenants state that they have repeatedly made requests of the Landlord to deal with a cockroach infestation. Both parties have agreed that upon the move in at the beginning of tenancy the presence of cockroaches was not an issue. As per the letter submitted by the Tenant from the Landlord, a presence of cockroaches was found in

another unit previously occupied by the Tenant prior to the move in of the current unit. The Tenant has stated that he's had the cockroach infestation issues since July of 2009, approximately, first noticing it some 4 months after moving in from the last rental unit. The Tenant has contacted several pest control companies for information, but none have attended to investigate or perform fumigation. It has been shown that the Landlord performed an inspection in September 2010. The Landlord noted a presence of cockroaches and determined that it was the responsibility of the Tenant to pay for the costs of spraying the unit. The Landlord noted that the unit was unsanitary and filled with items from the garbage bin. The Tenant disputes this.

The Tenant is also making a claim of \$2,000.00 for compensation for always having to eat out and perform a "Raid" spraying once every 3 weeks. No evidence was submitted.

### Analysis

The issue to be addressed is does the Landlord have cause to end the tenancy. The Landlord has made a claim that the Tenants have been abusive to staff. Allegations of threats to staff were made and I find on the balance of probabilities that the Landlord has satisfied me in this regard. I find that the notice to end tenancy for cause has been made. Based upon the above facts I find that the Landlord is entitled to an order of possession. As the Landlord has been found successful in their claim, I award the recovery of the \$50.00 filing fee. The Landlord may retain \$50.00 for their claim in partial satisfaction from the security deposit of \$500.00

The responsibility is on any applicant to prove their claim. The Tenant has not proven where the cockroaches originated and has not established that the Landlord was negligent upon this being reported to them to deal with the issue. Based upon the evidence given by the Tenant I find that the likely source of cockroaches originated from either unsanitary practices or the previous rental unit as noted in the partial letter submitted into evidence. I find that the Tenant has not satisfied me in their claim.

The Tenant has also not established how they were subject to a loss for the claim of \$2,000.00. I dismiss this claim. As the Tenant has not been successful in their claims I dismiss their application to recover the filing fee.

### Conclusion

The Landlord is granted an order of possession.

The Landlord may retain \$50.00 from the security deposit in partial satisfaction of their claim.

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*.