

## **DECISION**

**Dispute Codes:**                      **Landlord:** OPC and FF  
   **Tenants:** CNC and E

### **Introduction**

These applications were brought by both the landlord and the tenant.

By application of October 7, 2010, the landlord seeks an Order of Possession pursuant to a one-month Notice to End Tenancy for cause served on September 22, 2010 and setting an end of tenancy date of October 31, 2010. The landlord also seeks to recover the filing fee for this proceeding from the tenant.

By earlier application of October 4, 2010, the tenant sought to have the same Notice to End Tenancy set aside and an Order for emergency repairs for health or safety reasons.

### **Issues to be Decided**

These applications require decision on whether the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy or whether it should be set aside. The tenant's application requires a further decision on whether an Order for emergency repair is warranted.

## **Background and Evidence**

This tenancy began on December 1, 2000.

During the hearing, the property managers gave evidence that the Notice to End Tenancy had been served after the tenant had reported an occurrence of bedbugs in the rental unit.

They stated that they believed that the bed bugs were brought into the building by the tenant or her guests and that they believed the tenant should have been responsible for arranging treatment. They further stated that treatment was rendered extremely difficult due to the amount of material in the rental unit.

The property managers stated that there were no other units affected in the building and submitted signed statements from eight other tenants stating that they had, together with the building manager, inspected their rental units and found no bedbugs present.

They also submitted a copy of a letter to the tenant from the building manager reminding the tenant of her duty to maintain a clean apartment and directing that she do so as soon as possible. It is noteworthy that the letter was dated October 1, 2010, ten days after the Notice to End Tenancy had been issued.

The landlords stated that they had not arranged for treatment.

The advocates for the tenant noted that the tenancy has been ongoing for ten years, the rental unit is usually inspected monthly and there are no written warnings to the tenant other than that delivered after the Notice to End Tenancy.

They further stated that, as soon as their client became aware of the problem, she reported it to the building manager.

They stated that two other of their clients from the same building have reported bedbugs to them. At the landlord's suggestion that perhaps their facility was the point of origin, they stated that it had been inspected recently by a professional company using a trained dog and there was no evidence of bedbugs.

The advocates gave assurance that someone from their office would oversee and assist their client's preparation for treatment.

## **Analysis**

Locating the source of a bedbug infestation is practically impossible and in the absence of evidence from a qualified professional, I am not prepared to find that the tenant is the source of the bedbug problem.

Section 32 of the Act imposes a duty on both landlords and tenants to maintain the rental unit: the landlord for keeping it in a state suitable for occupancy and the tenant for maintaining reasonable cleanliness and sanitary standards, among others. The landlord's duty applies to the rental property and the tenant's duty applies to the rental unit and common areas. The tenant's duty to repair is limited to damage resulting from the action or negligence of the tenant or guests.

Again, I find that it has not been proven that the tenant or a guest caused the infestation.

Given the peripatetic nature of bedbugs, I do find that the landlords have been remiss and in breach of their duty under section 32(1) of the *Act* by failing to arrange for timely professional analysis and treatment.

## **Conclusion**

Therefore, as authorized under section 62(3) of the *Act*:

**I HEREBY ORDER** that the landlord engage a qualified and licensed pest control professional to assess and commence treatment of the bedbug infestation forthwith and continue with the standard treatment regimen as recommended.

**I further Order that** the tenant comply fully with any direction from the pest control specialists with respect to preparation for treatment and to accept assistance offered by her advocates in doing so.

The Notice to End Tenancy of September 22, 2010 is set aside and the tenancy continues.

November 2, 2010

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