



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call to deal with the tenant's application for an order cancelling a notice to end tenancy for cause.

The landlord society was represented by an agent, and the tenant also attended the conference call hearing. The landlord's agent called a witness, and the tenant was assisted by a friend. The parties and the witness gave affirmed testimony and the parties were given an opportunity to cross examine each other and the witness on their evidence. The landlord's agent also provided evidence in advance of the hearing. All testimony and evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling a notice to end tenancy for cause?

Background and Evidence

This month-to-month tenancy began on October 1, 2006 in another suite within the complex, and the tenant still resides in the apartment complex. Rent in the amount of \$358.00 per month is payable in advance at the end of the previous month, and there are no rental arrears.

The landlord's agent and his witness both testified that the building has had problems with bed-bugs and the landlord is doing his best to eradicate the problem. In order to do so, the society hires a K-9 unit to sniff out bed-bugs, larvae and feces left behind by bed-bugs. If the K-9 unit identifies any evidence of bed-bugs, the tenants are given a notice to prepare their unit for spraying once the pest control service sets out a plan of action.

The landlord's agent testified that the K-9 unit identified evidence of bed-bugs in this particular unit, although no actual bed-bug was found. The resident manager placed a

notice in the tenant's apartment under the door which contained instructions for preparing the suite for treatment on December 31, 2010. The spraying occurred on January 4, 2011 but the tenant had not prepared the unit and as a result, the pest control company did not treat that unit.

The landlord's agent also testified that if all affected units are not treated at one time, the bugs will travel to different units, and spraying will therefore not be entirely successful. He stated that 15 units had been identified for spraying, and only 2 of the tenants, including this tenant, failed to prepare for the treatments. If the tenants do not cooperate, the treatments will not be totally effective and the landlord will have to start over with the K-9 unit and spraying. The K-9 unit is attending the building on a monthly basis.

On January 5, 2011, the tenant was served with a 1 Month Notice to End Tenancy for Cause by sliding it under the door of the tenant's unit. A copy of that notice was provided by the landlord in advance of the hearing, and it states that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord and has put the landlord's property at significant risk. The notice is dated January 5, 2011 and contains an expected date of vacancy of February 5, 2011.

The tenant testified that he has not seen any bed-bugs in his unit. He further testified that he did not receive any instructions about preparing the unit other than to stay out for 6 or 8 hours, which he did.

The tenant also testified that he did not receive the landlord's evidence package however it was located during the course of the hearing. The package contained a number of documents, the first one being a copy of the notice of hearing for today's hearing, and he did not open it because he thought it was a copy of what he had already served on the landlord and was not sure why the landlord would return it to him. He stated that he is elderly, and did not look through the entire package.

Analysis

In the circumstances, I find that the landlord has had difficulty yet is determined to eradicate the bed-bug infestation in the building. I sympathize with the landlord and commend him for his determination. I find that the tenant has not cooperated and may be forgetful or disorganized with respect to documentation that was delivered to his unit, however, I am not satisfied that the tenant received all of the instructions. The tenant now has those instructions as evidenced by finding the evidence package of the landlord during the hearing.

The *Residential Tenancy Act* requires that a landlord serve the tenant with a notice to end a tenancy for cause the day before the day rent is due or earlier, and then the tenant will have the following month in the unit and must vacate at the end of that month. In this case, the notice is dated January 5, 2011, rent is payable on the last day of each month, and the effective date of vacancy is stated to be February 5, 2011. I find that the earliest date that complies with the *Act* is February 28, 2011.

Further, the *Act* sets out the permissible methods for serving a notice to end tenancy and sliding it under the door of the rental unit is not one of the methods provided for.

Conclusion

For the reasons set out above, I hereby cancel the notice to end the tenancy.

I further order that the tenant comply with all instructions given by the landlord with respect to preparing his rental unit for treatment. If the tenant fails to do so, the landlord will be at liberty to serve the tenant with another 1 Month Notice to End Tenancy for Cause.

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: February 4, 2011.

Residential Tenancy Branch